



महाराष्ट्र शासन राजपत्र

भाग एक-ल

वर्ष ६, अंक १७]

गुरुवार ते बुधवार, जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

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प्राधिकृत प्रकाशन

(केंद्रीय) औद्योगिक विवाद अधिनियम व मुंबई औद्योगिक संबंध अधिनियम यांखालील
(भाग एक, चार-अ, चार-ब आणि चार-क यांमध्ये प्रसिद्ध केलेल्या अधिसूचना, आदेश व निवाडे यांव्यतिरिक्त)
अधिसूचना, आदेश व निवाडे.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

REVISION APPLICATION (ULP) No. 103 of 1993.—The Principal, Government Polytechnic, Malvan, Dist. Sindhudurg.—*Petitioner—Versus—*Shri Ramchandra Dattatraya Vir, At Post Malvan, Near Sateri Mandir, Malvan, Tal. Malvan, District Sindhudurg.—Respondent.

In the matter of Revision under section 44 of the M. R. T. U. and P. U. L. P. Act.

CORAM.— Shri C. A. Jadhav, Member.

Advocates.— Shri D. J. Mangsule, Asstt. Government Pleader for the Petitioner.

Shri D. N. Patil, Advocate for the Respondent.

Judgment

This is a Revision by original Respondent-employer challenging legality of judgment and order passed in Complaint (ULP) No. 328 of 1992 whereby he is directed to reinstate original Complainant with continuity of service and other incidental benefits.

2. Admittedly, present Respondent (hereinafter referred to as the Complainant) was appointed by present Petitioner (hereinafter referred to as the employer) as a peon on 1st January, 1986 for a period of 29 days. He was then appointed from time to time for fixed days till 26th July, 1992 as watchman by intervals of one or two days. Ultimately, the employer discontinued his services with effect from 26th July 1992.

3. It is case of the Complainant that he was appointed on a permanent post and thereafter directed to work on different posts as per convenience of the employer. However, notional breaks were given from time to time to deprive him of the benefits of permanency. In fact, he has put in continues service of more than 240 days and has acquired status of a permanent employee. It is alleged that the employer resorted to giving notional breaks on an erroneous

impression that such breaks will deprive him benefits of permanency. However, such is not the legal position. He requested the employer to confer benefits of permanency. It was declined and then his services were terminated. No notice or notice pay was given while terminating his services. According to the Complainant, therefore, his termination is an unfair labour practice under items 1(a) (b) (d) and (f) of Sch. IV of the M.R.T.U. and P.U.L.P. Act. Eventually, the Complainant prayed for requisite declaration of unfair labour practice, reinstatement with continuity of service and full back wages and other consequential reliefs.

4. The Complainant also made an application (Exh. U-2) for interim relief.

5. Learned Labour Court directed the employer to allow him to work till 31st October 1992, *vide* order dated 6th October 1992. Eventually, he was allowed to join duties on 13th October 1992. The interim relief was continued till decision of main complaint.

6. The employer filed its say cum written statement at Exh. 16, *inter alia*, contending that the Complainant was temporarily appointed and that too on daily wages to guard Government property. In fact, it was necessary to call suitable candidates from Employment Exchange. However, it was time consuming process and hence the Complainant was directly recruited on temporary basis. It is also contended that the Complainant ought to have approached Maharashtra Administrative Tribunal and cannot invoke jurisdiction under the M.R.T.U. and P.U.L.P. Act. Besides, the Complainant can approach to State Selection Board for his recruitment. Finally, the employer prayed for dismissal of the application as well as the complaint.

7. Considering rival pleadings, learned Labour Court has framed issues at Exh.24. The parties then went to the trial. None of the parties led oral evidence. The Complainant produced his appointment orders whereas the employer a chart showing working days of the Complainant.

8. Learned Labour Court on perusal of documentary evidence and hearing both parties, observed that the Complainant has worked for more than 240 days in 12 calendar months immediately preceding the date of his termination, the breaks are notional and artificial one and do not affect continuity of service. It then observed that no case is proved by the employer as provided under section 2(oo) (bb) of the I. D. Act and therefore, the termination is with undue haste and in violation of provisions under section 25F of the I. D. Act. Ultimately, it allowed the complaint, as above, *vide* judgment and order dated 19th March 1993. The same is challenged in this Revision.

9. I heard both sides. Considering rival pleadings, following points arise for my determination :—

(i) Whether impugned decision directing reinstatement with continuity of service and other incidental benefits, is justifiable ?

(ii) What order ?

10. My findings on above points, are as under :—

(i) Yes.

(ii) The Revision Application is dismissed.

Reasons

11. This being a Revision under section 44 of the M.R.T.U. and P.U.L.P. Act, it is not necessary to scrutinise rival contentions meticulously. The only material question is whether documents on record are incapable of supporting impugned decision. In other words, whether impugned decision is perverse or justifiable ?

12. Learned Assistant Government Pleader Shri Mangsule representing the employer tried to canvass that the Complainant was appointed for a specific purpose and for a specific period. As such, it was not necessary to pay retrenchment compensation. The very fact of his direct recruitment goes to show that he was temporarily appointed. But the learned Labour Court misconstrued all such facts and recorded a perverse finding.

13. Shri Patil, learned Advocate representing the Complainant replied that no evidence is brought on record to show that the Complainant was appointed for a specific purpose. The very clause in appointment order that the appointment is terminable at any time, without notice, is contrary to the scope of section 2(oo) (bb) of the I. D. Act. As such, learned Labour Court has rightly allowed the complaint.

14. Learned Labour Court has recorded a finding of fact that the Complainant has put in continuous service of 240 days in 12 calendar months immediately preceding the date of his termination. His working days are not disputed by the employer. On the contrary, the employer himself has produced a chart with list Exh. 22. Various appointment orders nowhere clarify that the Complainant was appointed on a particular project or for a specific period. Consequently, it cannot be accepted that he was appointed to guard only one Government Property. It is also not shown that the post on which the Complainant was serving, is abolished. In such circumstances, services of the Complainant cannot be terminated without following due process of law. Clause in the appointment order that the appointment is terminable at any time takes the case out of the purview of contractual employment and nonrenewal thereof, as provided under section 2(oo) (bb) of the I. D. Act. Admittedly, no compensation was paid or offered to the Complainant. I, therefore, find that the learned Labour Court has rightly dis-believed plea of the employer and rightly allowed the complaint. Accordingly, I answer point No. 1 in the affirmative and pass following order.

Order

(i) The Revision Application is dismissed.

(ii) Parties shall bear their own costs.

Kolhapur,
Dated 31st January 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

CRIMINAL REVISION APPLICATION (ULP) No. 10 of 1997.—(1) I. M. S. Shirol, I, Executive Engineer, Mechanical Division, Tillari Nagar, Taluka Chandgad, Dist. Kolhapur, (2) R. I. Chougule, superintending Engineer, Mechanical Circle, Tarabai Park, Kolhapur.—*Petitioners—Versus*—(1) Sindhudurg Zilla Rajya Sarkari Karmachari Sanghatana, Sindhudurg, Kudal Prkalpa, Branch Konalkatta, Taluka Sawantwadi, Dist Sindhudurg through its President.—Respondent.

In the matter of Criminal Revision under section 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.— C. A. Jadhav, Member.

Advocates.— Shri D. J. Mangsule, Asstt. Government Pleader for the Petitioners.

Shri S. S. More, Advocate for the Respondent.

Judgment

This is a Revision by original Accused Nos. 1 and 2 challenging legality of order passed below Exh. U-1 in Criminal Complaint (ULP) No. 35/97 by Labour Court, Kolhapur whereby an order of issuing process under section 48(1) of the M.R.T.U. and P.U.L.P. Act, is passed against them.

2. Admittedly, present Respondent (hereinafter referred to as the union filed Complaint (ULP) No. 94/93 before Labour Court, Kolhapur, alleging unfair labour practice under section 28(1) read with items 1(a), (b), (d), (f) and (g) of Sch. IV of the M.R.T.U. and P.U.L.P. Act. It prayed for reinstatement of the employees named in the list annexed to the main complaint. It was allowed on 11th July 1995 directing present Accused Nos. 1 and 2 to reinstate all those employees with continuity of service and full back wages.

3. Revision Application (ULP) No. 372/95 preferred by the Accused before this Court challenging Labour Court's decision dated 11th July 1995 was dismissed on 9th January 1997. The Union then filed above Criminal Complaint alleging that Accused Nos. 1 and 2 failed to comply Order of Labour Court. It sent notices dated 29th January 1997 and 22nd April 1997 to Accused Nos. 1 and 2 to allow respective employees to join duties but they were not allowed. Finally, it alleged that the Accused committed offence punishable under section 48(1) of the M.R.T.U. and P.U.L.P. Act.

4. Learned Labour Court, on examination of Unions Taluka President on oath, passed an order on 28th April 1997 of issuing process against the Accused. The same is challenged in this Revision.

5. Now, following points arise for my determination :—

- (i) Whether impugned order issuing process is required to be set-aside at this stage ?
- (ii) What order ?

6. My findings on above points, are as under :—

- (i) No.
- (ii) The Revision Application is dismissed.

Reasons

7. Shri Mangsule, learned Assistant Government Pleader representing the Accused Nos. 1 and 2 Petitioners submitted that there was no sufficient material on record to pass order of issuing process against the Accused. Both original orders are now challenged in the Hon'ble

High Court and the Writ Petition is pending. In such circumstances, it was improper for Labour Court to issue process against the Accused. Besides, the Accused are public servants and cannot be prosecuted without previous sanction of the Government.

8. Section 40 of the M.R.T.U. and P.U.L.P. Act provides that a Labour Court shall have all the powers under Criminal Procedure Code in respect of offence punishable under said Act. Consequently, the Petitioners Accused can apply for recalling order of issuing process. Hon'ble Apex Court in *K. Mathew V/s State of Kerala reported in AIR 1992 SC at page 2206* has held that it is open to the Accused to plead before the Magistrate for varying or recalling order of process. As such, learned Labour Court has jurisdiction to vary and recall on order of issuing process. The Petitioners Accused can well approach the Labour Court and put all the grievances raised in this revision, before the Labour Court. Consequently, no interference is called for at this stage. Accordingly, I answer point No. 1 in the negative and pass following order :—

Order

- (i) The Criminal Revision Application is dismissed.
- (ii) R. & P be sent to Labour Court, Kolhapur.
- (iii) Parties to bear their own costs.

Kolhapur,
Dated 13st January 2003.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

REVISION APPLICATION (ULP) No. 97 To 102 of 1993.—The Principal, Government Polytechnic, Malvan, Dist. Sindhudurg.—*Petitioner—Versus—*Case No. 97/93 (1) Shri Peter Mingel D'Mellow, 650, New Grand, Tal. Savantwadi, Dist. Sindhudurg.—*Respondent No. 1*, Case No. 98/93. (2) Shri Ramdas Jagannath Kerkar, B/331, Chitar Alil, Tal. Savantwadi, Dist. Sindhudurg.—*Respondent No.2*, Case No. 99/93. (3) Shri Miling Mahadeo Sawant, Barsawantwada Tal. Savantwadi, District Sindhudurg.—*Respondent No. 3*, Case No. 100/93. (4) Shri Deepak Babu Shinde, Bangiwada-Revatal, Malvan, Dist. Sindhudurg.—*Respondent No. 4*, Case No. 101/93. (5) Mahesh Jiawaji Phondekar, At Phondaghat, Tal. Kankavali, District Sindhudurg.—*Respondent No. 5*, Case No. 102/93. (6) Maheshwar Ganapati Nikam, Mirya Banda, P. O. Kolamb, Tal. Malvan, Dist. Sindhudurg.—*Respondent No. 6*.

In the matter of Revision under section 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.— Shri C. A. Jadhav, Member.

Advocates.— Shri D. J. Mangsule, Asstt. Government Pleader for the Petitioner.

Shri D. N. Patil, Advocate for the Respondents.

Judgment

These Revisions are filed by original Respondent an Employer challenging legality of common judgment and order passed in Complaint (ULP) No. 113 to 115 and 148 to 150 of 1990 by Labour Court, Kolhapur, whereby he is directed to reinstate original Complainants with continuity of service and other consequential service benefits.

2. Admittedly, present Respondents (hereinafter referred to as the Complainants) were appointed by present Petitioner (hereinafter referred to as the employer) on various posts. It is better to refer original Complainants by their surnames, for convenience. Complainant Shri D'Mellow was appointed on the post of Turner on 4th August, 1989. Complainant Shri Kerkar was appointed on the post of Lab. Assistant on 6th August, 1989. Whereas Shri Sawant on similar post on 14th August, 1989. Complainant Shri Shinde was appointed on the post of Lab. Assistant on 7th August, 1989. Complainant Shri Phondekar was appointed on the post of Lab. Assistant on 14th August, 1989 and Complainant Shri Nikam was appointed on the post of Moulder on 28th July 1989.

3. It is case of all Complainants that they were appointed on respective vacant posts being educationally qualified and have been succesful in the interviews their appointment orders were not for a fixed period.

4. It has come on the record that the employer termination services of three Complainants, namely Shri D'Mellow, Shri Kerkar and Shri Sawant on 2nd June, 1990 by a common letter of same date. It has also come on the record that the employer then terminated service of other three Complainants namely Shri Shinde, Shri Phondekar and Shri Nikam with effect from 13th August, 1990 by separate letter of same date.

5. It is alleged by the Complainant that they had put continues service of more than 240 days in 12 calender months proceeding their terminations. They are terminated without notice and without payment of retrenchment compensation. They were appointed to do work of perennial nature and their services record is clean and unblemished. Their termination is in violation of provisions under section 25 F and 25 G and 25 H of the I. D. Act. Finally, they alleged that the employer has indulged in an unfair labour practices under items 1(a), (b), (d) and (f) of Sch. IV of the M.R.T.U. and P.U.L.P. Act and prayed for requisite declaration of unfair labour practice, reinstatement with continuity of service and full back wages as well as other consequential reliefs.

6. All Complainants filed Applications (Exh. U-2) for interim relief. Learned Labour Court directed the employer to allow them to work, with a show cause notice. Eventually, they were allowed to join duties. Shri D'Mellow, Shri Kerkar and Shri Sawant Joined on 18th June, 1990 whereas other Complainants on 2nd March, 1991.

7. The employer filed identical written statements at Exh. 11 raising multi-fold contentions. He contended that the Deputy Director is the Appointing Authority of the Complainants as the Complainants were terminated as per his directions and hence is a necessary party. Besides, the Complainants are not 'workmen' as defined under the I. D. Act, ought to have approached Maharashtra Administrative Tribunal and cannot invoke jurisdiction under the M.R.T.U. and P.U.L.P. Act. Besides, the Complainants are not approved by State Selection Board. He further contended that the Complainants were appointed on temporary basis and that too conditionally. It is made clear in the appointment order itself that they are temporarily appointed till availability of the candidates from Selection Board and their service liable to be terminated at any time without assigning any reason. According to him, the termination is not a retrenchment but is covered under section 2(oo) (bb) of the I. D. Act. Finally, the employer justified his action and prayed for dismissal of the applications as well as complaints.

8. None of the parties led oral evidence but relied on documents only. The Complainants produced appointment orders whereas the employer a Chart showing working days of all the Complainants.

9. Learned Labour Court, on perusal of documents on record and hearing both parties, found that each of the Complainants worker for more than 240 days in 12 calender months preceding their terminations. It then held that no case is proved by the employer as provided under section 2(oo) (bb) of the I. D. Act and hence the termination is with undue haste as well as in violation of provisions under the I. D. Act. Ultimately, it allowed all complaints, as above, *vide* common judgment and order dated 17th March 1993. The same is challenged in this Revision.

10. I heard both sides. Considering rival submissions, following points arise for my determination :—

(i) Whether impugned decision directing reinstatement with continuity of service and other incidental benefits, is justifiable ?

(ii) What order ?

11. My findings on above points, are as under :—

(i) Yes.

(ii) The Revision Applications are dismissed.

Reasons

12. As these Revisions are under section 44 of the M.R.T.U. and P.U.L.P. Act, it is not necessary to scrutinise rival contentions meticulously. The only material question is whether documents on record are incapable of supporting impugned decision ? In other words, whether impugned decision is perverse or justifiable ?

13. It also needs to be stated that Deputy Director of Technical Education has now regularised services of all Complainants with effect from 1st September, 1999. I do not wish to enter into controversy regarding regularisation, its date and effect thereof. The only point that arises for my consideration is whether the termination by invoking one of the clauses in letter of appointment amounts to retrenchment or is covered under section 2(oo) (bb) of the I. D. Act.

14. Learned Assistant Government Pleader Shri Mangsule representing the employer tried to canvass that all Complainants were liable to be terminated at any time without assigning any reason. As such, it was not necessary to pay retrenchment compensation.

15. Shri Patil, learned advocate representing the Complainants replied that no evidence is brought on record to show that the Complainants were appointed for a specific purpose. The very clause in appointment orders was that the appointment is terminable at any time, without notices, is contrary to the scope of section 2(oo) (bb) of the I. D. Act. As such, learned Labour Court has rightly allowed the complaints.

16. The employer has produced a chart at Exh. 20 which shows that each of the Complainants put continuous service of more than 240 days. Learned Labour Court has recorded a finding of fact to that effect. Thus, now the same cannot be disputed by the employer on any count. Deputy Director of Technical Education is not a necessary party as the employer himself has appointed as well as terminated the Complainants. Burden lies upon the employer to establish that there was a contract of employment and the termination is the result of non-renewal of contract. However, respective appointment orders do not establish the case under section 2(oo) (bb) of the I. D. Act. All the Complainants were appointed after an interview. Appointments with clause that they are terminable at any time without assigning any reason, will amount to turning section 2(oo) (bb) of the I. D. Act negatory. I, therefore, find that learned Labour Court has rightly dis-believed plea of the employer and rightly allowed the complaints. Accordingly, I answer point No. 1 in the affirmative and pass following order :—

Order

- (i) All Revision Applications are dismissed.
- (ii) Copy of the judgment be kept in other Revision Applications.
- (iii) Parties shall bear their own costs.

Kolhapur,
Dated 31st January 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

**BEFORE THE INDUSTRIAL COURT, MAHARASHTRA
AT KOLHAPUR**

REVISION APPLICATION (ULP) No. 122 of 2002.—Shri Prakash Shivaji Yamgar, R/o. Islampur, Tal. Walwa, Dist. Sangli.—*Petitioner.*—*Versus*—Divisional Traffic Officer, Maharashtra State Road Transport Corporation, Sindhudurg Division, Sindhudurg.—*Respondent.*

In the matter of Revision under section 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM .— Shri C. A. Jadhav, Member.

Advocates.— Shri A. G. Pansare, Advocate for the Petitioner.

Shri M. G. Badadare, Advocate for the Respondent.

Judgement

1. This is a revision by Original Complainant challenging legality order passed below Exh. U-7 in Complaint (ULP) No. 318 of 2002 by In-charge Presiding Officer of Labour Court, Kolhapur, whereby he refused to extend 'status quo order' for non-payment of process fees.

2. Admittedly present Petitioner (hereinafter referred to as the Complainant) filed above complaint challenging his proposed dismissal. He also made an interim application (Exh. U-2) claiming *interim relief*. In-charge Presiding Officer passed an order on 16th December 2002 directing the Respondent. Transport Corporation to maintain status regarding service conditions of the Complainant till 18th December 2002, with a show cause notice. It appears that require process fee was not paid and hence no notice could be sent to the Transport Corporation. The Complainant then made an application (Exh. U-7) for extension of interim order. It was rejected for non-payment of requisite process fees, *vide* order dated 18th December 2002. The same is challenged in this revision.

3. I heard both Advocates. Considering rival submissions, following points arise for my determination :—

(i) Whether impugned order refusing to continue *ad-interim* order on the ground non-payment of process fee, is justifiable ?

(ii) What order ?

4. My findings on above points are as under :—

(i) No.

(ii) The Revision Application is partly allowed.

Reasons

5. The facts as stated above are no longer in dispute. Shri Pansare, learned Advocate representing the Complainant submitted that deficit process fee was not paid inadvertently, however, consequence thereof have practically resulted into mis-carriage of justice. He pointed out that the Labour Court was satisfied that a *prima facie* case is made out by the Complainant and, therefore, granted *ad-interim relief* by waiving prior notice to other side. In such circumstances, refusal to continue the same on account of non-payment of process is totally unjustified.

6. Shri Badadare, learned Advocate representing the Transport Corporation replied that original order dated 16th December 2002 was not communicated to the Corporation. The Corporation has already terminated services of the Complainant on 16th December 2002 at 10-20 a.m. As such, now the Revision has become infructuous.

7. By way of rejoinder, Advocate Shri Pansare replied that the Complainant has made another application Exh. U-9 contending that original *ad-interim* order was passed prior to alleged termination order, the termination is *void-ad-initio* and has prayed to direct the Corporation to allow him to work.

8. Order dated 18th December, 2002 refusing to continue *ad-interim relief* is the only subject matter of this revision. Now, the Corporation has come with a case that Complainant's services were already terminated on 16th December, 2002 itself *i.e.* prior to communication of *ad-interim* order. The question as to whether disputed termination order is legal or not in my opinion, needs to be decided by Labour Court. No doubt, section 32 of the M.R.T.U. and P.U.L.P. Act empowers the Courts to decide all matters arising out of any application or complaint. However, question regarding legality or otherwise of Complainant's alleged termination order is covered by item 1 of schedule IV of the M.R.T.U. and P.U.L.P. Act, and hence section 32 of the Act does not empower the Industrial Court to decide the same.

9. Now reverting to subject matter of this revision, *i.e.* justifiability or otherwise of order dated 18th December, 2002 refusing to continue *ad-interim relief* on account of non-payment of process, in my judgment, it was unwarranted. It cannot be gain said that learned Labour Court was satisfied with the *prima facie* case, urgency made out by the Complainant and hence granted *ad-interim relief*, by waiving notice to other side. In such circumstances, refusal to continue the interim order on account of non-payment of process was totally unwarranted. The very purpose of M.R.T.U. and P.U.L.P. Act is prevention of unfair labour practice. In the peculiar facts and circumstances, hyper technical approach by refusing to continue *ad-interim relief* was unjustifiable. Accordingly, I answer point No. 1 in the negative.

10. In view of negative finding of point No. 1, impugned order needs to be set-aside. But the controversy does not end here. Legality of Complainant's alleged termination dated 16th December, 2002 needs to be decided by Labour Court as the same is covered by item 1 of schedule IV of the M.R.T.U. and P.U.L.P. Act. The question of continuation of *ad-interim* order will arise thereafter. I, therefore, direct the Labour Court to decide Complainant's Application (Exh. U-2) a fresh, according to provisions of law. I must make it clear that controversy regarding Complainant's alleged termination dated 16th December, 2002 is expressly kept open.

11. Finally, I pass following order :—

Order

- (i) The revision application is partly allowed.
- (ii) Impugned order passed below Complainant's application Exh. U-7 refusing to continue *ad-interim relief*, is set aside. The Labour Court is directed to decide the same afresh.
- (iii) According to law.
- (iv) Parties shall bear their own costs.

Kolhapur,
Dated the 27th January 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

**BEFORE THE MEMBER, INDUSTRIAL COURT, MAHARASHTRA
AT KOLHAPUR**

COMPLAINT (ULP) No. 40 of 1996.—Mr. Sidhaling Veerbhadra Malapure, Chaudeshwari Bank Staff Colony, Gate No. 786, Near Jawaiwadi, Shahapur, Ichalkaranji.—*Complainant*.—*Versus*—Chaundeshwari Sahakari Bank Ltd, Mahatma Phule Road, Ichalkaranji, through its General Manager.—*Respondent*.

In the matter of Complaint under section 28(1) read with items 9 and 10 of schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.— Shri C. A. Jadhav, Member.

Advocates.— Shri D. N. Patil, Advocate for the Complainant.

Shri A. D. Patil, Advocate for the Respondent.

Judgement

1. This is a complaint under section 28(1) read with items 9 and 10 of scheduled IV of the M.R.T.U. and P.U.L.P. Act.

2. Admittedly the Complainant is in employment of the Respondent-Bank as a Clerk. The Bank is a Co-operative Society, governed by provisions under the BIR Act and Model Standing Orders framed thereunder for banking industry. It served charge sheet 15th June, 1992 upon the Complainant alleging certain misconducts. Then an enquiry took place. The Enquiry Officer held that misconducts alleged in the charge sheet are proved. The Bank accepted his Report and then suspended the Complainant without pay for 4 days *i. e.* 24th April, 1995 to 27th April, 1995 as a punishment by order dated 18th April, 1995.

3. It is case of the Complainant that the joined Bank Employees Union. The Bank got annoyed and false charge sheet is the first step towards his victimisation. Beside, principles of natural justice were not followed in the enquiry and the Enquiry Officer acted as a Prosecutor *cum* Judge. Finding of the Enquiry Officer are also perverse. It is further alleged, in the alternate that punishment of suspension without pay is contrary to Standing Orders and is unsustainable in law. Eventually the Complainant has prayed for viciating the enquiry, setting aside the punishment and consequential monetary benefits.

4. The Bank filed its written statement at Exh. C-8, *inter-alia*, contending that Principles of natural justice were followed in the enquiry. The Enquiry Officer was impartial, independent one and his findings are based upon evidence. In fact, the Complainant ought to have been awarded punishment of dismissal. However, an opportunity to improve himself was extended and minor punishment was imposed. The Complainant was suspended pending the enquiry and hence is not entitled to wages and other benefits as if, he was on actual duty. Finally, it justified its action and prayed for dismissal of the complaint.

5. The Complainant filed pursis (Exh. U-6) stating that he admits the enquiry and findings thereof. Both Advocates then filed pursis Exh. CU-1 that they did not wish to lead oral evidence.

6. Considering rival pleadings, following issues were framed by me, at Exh. O-1 :—

(i) Whether impugned punishment is contrary to Model Standing Order framed under the BIR Act for banking industry ?

(ii) Does the Complainant prove that the Respondent Bank has engaged in an unfair labour practice under item 9 of schedule IV of the M.R.T.U. and P.U.L.P. Act ?

(iii) What order ?

7. My findings on above issues are as under :—

(i) Yes.

(ii) Yes.

(iii) The complaint is partly allowed.

Reasons

8. It is not controverted that Bank Employees Union is approved and recognised union under the BIR Act, for Hatkananagale Taluka *i.e.* local area of Kolhapur District. The Bank filed an application at Exh. C-4 that the complaint is not maintainable as is not filed by approved and representative union. My learned Predecessor rejected the same by relying upon provisions under section 2-A of the I.D. Act and section 20(2) (b) of the M.R.T.U. and P.U.L.P. Act.

9. The Complainant has admitted legality of the enquiry as well as findings of the enquiry officer. As such, controversy regarding its procedure and alleged perversity of findings thereof, does not survive.

10. Shri D. N. Patil, learned Advocate representing the Complainant argued that Model Standing Orders for the Banking Industry are applicable to Respondent Bank and no punishment which is imposed by the Bank, is provided thereunder. The Bank is not entitled to impose any major or minor punishment which is not provided under the Model Standing Orders. As such, punishment of suspension for 4 days without pay is bad in law and an unfair labour practice.

11. Shri A. D. Patil, learned Advocate representing the Bank replied that proved misconducts were grave and serious and punishment of dismissal ought to have been imposed upon the Complainant. However, a leniency is shown and thus punishment imposed is in lieu of dismissal.

12. I perused Model Standing Orders for the Banking Industry, notified under the BIR Act. Order 27 thereof says that nothing contained therein shall operate in derogation of any law for the time being in force or to the prejudice of any right under the agreement or contract of service, custom, usage or award applicable to the Bank. Thus, prohibition against the operation of Standing Orders comes into play only when better rights are acquired by an employee under the Contract of service.

13. Order No. 22 of the Model Standing Orders provides punishment for misconduct, but no punishment of suspending an employee without pay is provided thereunder. Therefore, I have no difficulty to hold that punishment imposed upon the Complainant is contrary to Model Standing Orders. Accordingly, I answer Issue No. 1 in the affirmative. The Bank is bound by Model Standing Orders but violated the same while imposing punishment to the Complainant. Its failure to abide provisions thereunder is clearly an unfair labour practices under item 9 of schedule IV of the M.R.T.U. and P.U.L.P. Act. Accordingly, I answer issue No. 2 in the affirmative. However, I make it clear that the Bank is entitled to take appropriate action and impose appropriate punishment as per Model Standing Orders.

14. Finally, I pass following order :—

Order

(i) The complaint is partly allowed.

(ii) It is declared that the Respondent has committed unfair labour practices under item 9 of schedule IV of the M.R.T.U. and P.U.L.P. Act.

(iii) The Respondent-Bank is directed to cease and desist from engaging in such unfair labour practice forthwith.

(iv) Punishment order dated 18th April 1995 suspending the Complainant for 4 days, without pay, is set aside. The Bank is at liberty to take appropriate action as per Model Standing Orders.

(v) No order as to costs.

Kolhapur,
Dated 27th January 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

**BEFORE THE MEMBER, INDUSTRIAL COURT, MAHARASHTRA
AT KOLHAPUR**

COMPLAINT (ULP) No. 39 of 1996.—Mr. Sudhir Shankarrao Bedagkar, Gopalkar Building 1/357, A-Todkar Mala, Ichalkaranji.—*Complainant.*—*Versus*—Chauddeshwari Sahakari Bank Ltd, Mahatma Phule Road, Ichalkaranji, through its General Manager.—*Respondent.*

In the matter of Complaint under section 28(1) read with items 9 and 10 of schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.— Shri C. A. Jadhav, Member.

Advocates.— Shri D. N. Patil, Advocate for the Complainant.

Shri A. D. Patil, Advocate for the Respondent.

Judgement

1. This is a complaint under section 28(1) read with items 9 and 10 of scheduled IV of the M.R.T.U. and P.U.L.P. Act.

2. Admittedly the Complainant is in employment of the Respondent-Bank as a Clerk. The Bank is a Co-operative Society, governed by provisions under the BIR Act and Model Standing Orders framed thereunder for banking industry. It served charge sheet 17th November 1992 upon the Complainant alleging certain misconducts. Then an enquiry took place. The Enquiry Officer held that misconducts alleged in the charge sheet are proved. The Bank accepted his Report and then suspended the Complainant without pay for 4 days *i. e.* 16th October 1995 to 19th October 1995 as a punishment by order dated 14th October 1995.

3. It is case of the Complainant that he joined Bank Employees Union. The Bank got annoyed and false charge sheet is the first step towards his victimisation. Beside, principles of natural justice were not followed in the enquiry and the Enquiry Officer acted as a Prosecutor cum Judge. Finding of the Enquiry Officer are also perverse. It is further alleged, in the alternate that punishment of suspension without pay is contrary to Standing Orders and is unsustainable in law. Eventually the Complainant has prayed for viciating the enquiry, setting aside the punishment and consequential monetary benefits.

4. The Bank filed its written statement at Exh. C-8, *inter-alia*, contending that Principles of natural justice were followed in the enquiry. The Enquiry Officer was impartial, independent one and his findings are based upon evidence. In fact, the Complainant ought to have been awarded punishment of dismissal. However, an opportunity to improve himself was extended and minor punishment was imposed. The Complainant was suspended pending the enquiry and hence is not entitled to wages and other benefits as if, he was on actual duty. Finally, it justified the punishment and prayed for dismissal of the complaint.

5. The Complainant filed pursis (Exh. U-6) stating that he admits the enquiry and findings thereof Both Advocates then filed pursis Exh. CU-1 that they did not wish to lead oral evidence.

6. Considering rival pleadings, following issues were framed by me, at Exh. O-1 :—

(i) Whether impugned punishment is contrary to Model Standing Order framed under the BIR Act for banking industry ?

(ii) Does the Complainant prove that the Respondent Bank has engaged in an unfair labour practice under item 9 of schedule IV of the M.R.T.U. and P.U.L.P. Act ?

(iii) What order ?

7. My findings on above points are as under :—

(i) Yes.

(ii) Yes.

(iii) The complaint is partly allowed.

Reasons

8. It is not controverted that Bank Employees Union is approved and recognised union under the BIR Act, for Hatkananagale Taluka *i.e.* local area of Kolhapur District. The Bank filed an application at Exh. C-4 that the complaint is not maintainable as is not filed by approved and representative union. My learned Predecessor rejected the same by relying upon provisions under section 2-A of the I.D. Act and section 20(2) (b) of the M.R.T.U. and P.U.L.P. Act.

9. The Complainant has admitted legality of the enquiry as well as findings of the enquiry officer. As such, controversy regarding its procedure and alleged perversity of findings thereof, does not survive.

10. Shri D. N. Patil, learned Advocate representing the Complainant argued that Model Standing Orders for the Banking Industry are applicable to Respondent Bank and no punishment which is imposed by the Bank, is provided thereunder. The Bank is not entitled to impose any major or minor punishment which is not provided under the Model Standing Orders. As such, punishment of suspension of 4 days without pay is bad in law and an unfair labour practice.

11. Shri A. D. Patil, learned Advocate representing the Bank replied that proved misconducts were grave and serious and punishment of dismissal ought to have been imposed upon the Complainant. However, a leniency is shown and thus punishment imposed is in lieu of dismissal.

12. I perused Model Standing Orders for the Banking Industry, notified under the BIR Act. Order 27 thereof says that nothing contained therein shall operate in interrogation of any law for the time being in force or to the prejudice of any right under the agreement or contract of service, custom, usage or award applicable to the Bank. Thus, prohibition against the operation of Standing Orders comes into play only when better rights are acquired by an employee under the Contract of service.

13. Order No. 22 of the Model Standing Orders provides punishment for misconduct, but no punishment of suspending an employee without pay is provided thereunder. Therefore, I have no difficulty to hold that punishment imposed upon the Complainant is contrary to Model Standing Orders. Accordingly, I answer Issue No. 1 in the affirmative. The Bank is bound by Model Standing Orders but violated the same while imposing punishment to the Complainant. Its failure to abide provisions thereunder is clearly an unfair labour practices under item 9 of schedule IV of the M.R.T.U. and P.U.L.P. Act. Accordingly, I answer issue No. 2 in the affirmative. However, I make it clear that the Bank is entitled to take appropriate action and impose appropriate punishment as per Model Standing Orders.

14. Finally, I pass following order :—

Order

(i) The complaint is partly allowed.

(ii) It is declared that the Respondent has committed unfair labour practices under item 9 of schedule IV of the M.R.T.U. and P.U.L.P. Act.

(iii) The Respondent-Bank is directed to cease and desist from engaging in such unfair labour practice forthwith.

(iv) Punishment order dated 14th October 1995 suspending the Complainant for 4 days, without pay, is set aside. The Bank is at liberty to take appropriate action as per Model Standing Orders.

(v) No order as to costs.

Kolhapur,
Dated the 27th January 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

**BEFORE THE INDUSTRIAL COURT, MAHARASHTRA
AT KOLHAPUR**

REVISION APPLICATION (ULP) No. 158 of 1993.—Shivaji Namdeo Natekar, Mangalwar Peth, Ward No. 5, Kaikadi Galli, Jat, Tal. Jat, Dist. Sangli.—*Petitioner.*—*Versus*—Divisional Controller, Maharashtra State Road Transport Corporation, Sindhudurg Division, Kankavali, Dist. Sindhudurg, —*Respondent.*

In the matter of Revision under section 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.— Shri C. A. Jadhav, Member.

Advocates .— Shri D. M. Patil, Advocate for the Petitioner.

Shri M. G. Badadare, Advocate for the Respondent.

Judgement

1. This is a revision by Original Complainant challenging legality of judgment and order passed in Complaint (ULP) No. 61 of 1990 by Labour Court, Kolhapur, whereby he refused of reinstatement with continuity of service and full back wages is refused by dismissing his complaint.

2. Admittedly present Petitioner (hereinafter referred to as the Complainant) joined present Respondent (hereinafter referred to as Transport Corporation) on 15th November, 1979 as a helper. He was dismissed from service in the year 1982 on account of absentism and was appointed as a fresh employee on 1st June, 1983 as a helper. He was posted at Sawantwadi Depot whereas, his native place is Jat, District Sangli. The Corporation served charge sheet dated 30th September, 1987 upon him alleging absence without leave from 24th July, 1987 to 1st August, 1987 (9 days) and 21st August, 1987 to 23rd August, 1987 (3 days). Then an enquiry took place. Ultimately, he was dismissed from service.

3. It is case of the Complainant that charge sheet is vague and the Depot Manager has no authority to issue the same. The enquiry is contrary to principles of natural justice and findings of the Enquiry Officer are perverse. In fact, he used to come to his native place on weekly holidays to look after his aged mother. He was unable to attend duties from 24th July, 1987 to 1st August, 1987 due to ill-health of his mother and wife. He came to Jat on 20th August, 1987 but could not resume duties on next date due to ill-health of his mother. He put all such facts before the Enquiry Officer but those were not considered. It is alleged that the punishment is shockingly disproportionate, by way of victimisation and colourable exercise of employer's right. Eventually, he prayed for requisite reliefs.

4. The Transport Corporation filed its written statement at Exh. C-6 contending that the Complainant was absent without prior permission and without prior permission and without reasonable cause. The enquiry is fair and proper and finding thereof are well justifiable. The punishment awarded is commensurate to the proved misconduct. Finally, it prayed for dismissal of the complaint.

5. The Labour Court then framed issues at Exh. 8 and the parties went to the trial. None of the parties led oral evidence. The Corporation produced entire enquiry papers.

6. Learned Labour Court, on perusal of documentary evidence and hearing both parties, held that the enquiry is fair and proper and findings of the Enquiry Officer are not perverse. It then observed that no evidence was put before the Enquiry Officer to justify the absence. It then refused to take lenient view on the ground that the Complainant was previously dismissed on the ground of absentism. Ultimately, it held that no unfair labour practice is proved and dismissed the complaint by judgment and order dated 16th January, 1993. The same is challenged in this revision.

7. I heard both Advocates. Considering rival submissions, following points arise for my determination :—

(i) Whether impugned finding that punishment of dismissal is justifiable, warrants interference ?

(ii) What order ?

8. My findings on above points are as under :—

(i) Yes.

(ii) The Revision Application is partly allowed.

Reasons

9. Shri D. M. Patil, learned Advocate representing the Complainant fairly conceded that findings of the Enquiry Officer are not perverse as the Complainant was admittedly absent for 9 and 3 days. He then submitted that peculiar facts of this case need to be considered. The Complainant is residing at Jat *i. e.* on the border of the Maharashtra State and is serving at Sawantwadi, which is far away from his native place. Sometimes, it happened that the Complainant is required to attend native place for some urgency and then required to stay to meet out them. He is a poor helper and has no maturity to inform the absence on phone or otherwise. Besides, his post was not a key post which resulted into a great inconvenience due to his absence. Distance between his native place and the place of work is prime cause for his absence. Considering all such circumstances, no documentary evidence could be expected from him to justify the absence. But the Labour Court did not consider the background of the absenteeism. In fact, absence of 12 days cannot be said as chronic. He then submitted that the Complainant is willing to forego back wages. In support of his arguments, he relied on the decision in *Doddaraju Vs. District and Sessions Judge, reported in 1996 1 CLR at page 188*. Finally, he submitted that the Revision Application is allowed, accordingly.

10. Shri Badadare, learned Advocate representing the Transport Corporation replied that the Complainant did not improve despite earlier dismissal due to absenteeism. As such, now, he is not entitled to sympathetic consideration. His reinstatement by any mode will not serve any material purpose. No evidence was adduced before the Enquiry Officer regarding illness of his mother and wife. Such plea is after thought and only to get sympathy of the Court. Finally, he supported impugned decision and prayed for dismissal of the Revision Application.

11. Advocate Shri D. M. Patil, in reply, stated that the Complainant would not be benefited by making false excuse regarding his absence. Period of absence is of marginal days but consequential punishment of dismissal *i. e.* of economic death of totally unjustified.

12. In my judgment, period of absenteeism is marginal one *i. e.* 3 days and 9 days. It cannot be ignored that the Complainant is resident of Jat, District Sangli whereas was serving at Sawantwadi. Distance between the two is substantial one. He is simply a helper and it cannot be accepted from him that he should communicate by phone or telegram regarding his exigencies. Considering short period of absence, instance for medical certificate or record will be too technical. Rustic villagers are generally unaware of procedural aspect like abstaining medical certificate, communicating the exigencies and then apply for leave. No doubt, chronic absenteeism cannot be tolerated. However, such is not the present case. It appears that learned Labour Court has much swayed due to previous absence of the Complainant. In my judgment, he is properly punished and then was appointed again. Observations in *Doddaraju Vs. District and Sessions Judge's case* (referred supra) are application here. It is observed that object of punishment should be reformatory and the employee should be given some concession in appropriate cases. Besides, the complaint is helper and there was no material disturbance to Corporation's working due to his absence. Now, he is out of employment since the year 1988 *i. e.* for 14 years. Thus, to my mind, this is more than sufficient punishment and now, he deserves reinstatement without back wages. It appears that the Labour Court took a mechanic

approach which is unwarranted in the peculiar facts of this case. Eventually, inference to the extent of punishment awarded by the Corporation is warranted. Accordingly, I answer point No. 1 in the affirmative and pass following order :—

Order

(i) The revision application is partly allowed.

(ii) Impugned decision dismissing the complaint entirely, is set aside.

(iii) The Complaint is partly allowed.

(iv) It is declared that the Maharashtra State Road Transport Corporation is engaged in unfair labour practices under item 1(a) of schedule IV of the M.R.T.U. and P.U.L.P. Act.

(v) The Maharashtra State Road Transport Corporation is directed to reinstate the Complainant on his original post without back wages but with continuity of service, with effect from 1st February 2003.

(vi) Parties shall bear their own costs.

Kolhapur,
Dated the 27th January 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

**BEFORE THE INDUSTRIAL COURT, MAHARASHTRA
AT KOLHAPUR**

COMPLAINT (ULP) No. 38 of 1996.—Mr. Satej Saudagar Kadtare, Shrishail Mallikarjun Niwas, Near Sangli Octroi Naka, Shahapur Road, Ichalkaranji.—*Complainant.*—*Versus*—Chaundeshwari Sahakari Bank Ltd, Mahatma Phule Road, Ichalkaranji, through its General Manager.—*Respondent.*

In the matter of Complaint under section 28(1) read with items 9 and 10 of schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.— Shri C. A. Jadhav, Member.

Advocates.— Shri D. N. Patil, Advocate for the Complainant.

Shri A. D. Patil, Advocate for the Respondent.

Judgement

1. This is a complaint under section 28(1) read with items 9 and 10 of scheduled IV of the M.R.T.U. and P.U.L.P. Act.

2. Admittedly the Complainant is in employment of the Respondent-Bank as a Clerk. The Bank is a Co-operative Society, governed by provisions under the BIR Act and Model Standing Orders thereunder for banking industry. It served chargesheet 6th October, 1992 upon the Complainant alleging certain misconducts. Then an enquiry took place. The Enquiry Officer held that misconducts alleged in the chargesheet are proved. The Bank accepted his Report and then suspended the Complainant without pay for 4 days *i. e.* 16th October, 1995 to 19th October, 1995 as a punishment by order dated 14th October, 1995.

3. It is case of the Complainant that he joined Bank Employees Union. The Bank got annoyed and false chargesheet is the first step towards his victimisation. Besides, principles of natural justice were not followed in the enquiry and the Enquiry Officer acted as a Prosecutor *cum* Judge. Findings of the Enquiry Officer are also perverse. It is further alleged, in the alternate that punishment of suspension without pay is contrary to Standing Orders and is unsustainable in law. Eventually the Complainant has prayed for vitiating the enquiry, setting aside the punishment and consequential monetary benefits.

4. The Bank filed its written statement at Exh. C-8, *inter-alia*, contending that principles of natural justice were followed in the enquiry. The Enquiry Officer was impartial, independent one and his findings are based upon evidence. In fact, the Complainant ought to have been awarded punishment of dismissal. However, an opportunity to improve himself was extended and minor punishment was imposed. The Complainant was suspended pending the enquiry and hence is not entitled to wages and other benefits as if, he was on actual duty. Finally, it justified the punishment and prayed for dismissal of the complaint.

5. The Complainant filed pursis (Exh. U-6) stating that he admits the enquiry and findings thereof Both Advocates then filed pursis Exh. CU-1 that they did not wish to lead oral evidence.

6. Considering rival pleadings, following issues were framed by me, at Exh. O-1 :—

(i) Whether impugned punishment is contrary to Model Standing Order framed under the BIR Act for banking industry ?

(ii) Does the Complainant prove that the Respondent Bank has engaged in an unfair labour practice under item 9 of schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971 ?

(iii) What order ?

7. My findings on above points are as under :—

(i) Yes.

(ii) Yes.

(ii) The complaint is partly allowed.

Reasons

8. It is not controverted that Bank Employees Union is approved and recognised union under the BIR Act for Hatakanangale Taluka i.e. local area of Kolhapur District. The Bank filed an application at Exh. C-4 that the complaint is not maintainable as is not filed by an approved and representative union. My learned Predecessor rejected the same relying upon provisions under section 2-A of the I.D. Act and section 20(2) (b) of the M.R.T.U. and P.U.L.P. Act.

9. The Complainant has admitted legality of the enquiry as well as findings of the Enquiry Officer. As such, controversy regarding its procedure and alleged perversity of findings thereof, does not survive.

10. Shri D. N. Patil, learned Advocate representing the Complainant argued that Model Standing Orders for the Banking Industry are applicable to Respondent Bank and no punishment which is imposed by the Bank, is provided thereunder. The Bank is not entitled to impose any major or minor punishment which is not provided under the Model Standing Orders. As such, punishment of suspension for 4 days without pay is bad in law and an unfair labour practice.

11. Shri A. D. Patil, learned Advocate representing the Bank replied that proved misconducts were grave and serious and punishment of dismissal ought to have been imposed upon the Complainant. However, a leniency is shown and thus punishment imposed is in lieu of dismissal.

12. I perused Model Standing Orders for the Banking Industry, notified under the BIR Act. Order 27 thereof says that nothing contained therein shall operate in derogation of any law for the time being in force or to the prejudice of any right under the Agreement or contract of service, custom, usage or award applicable to the Bank. Thus, prohibition against the operation of Standing Orders comes into play only when better rights are acquired by an employee under the Contract of service.

13. Order No. 22 of the Model Standing Orders provides punishment for misconduct, but no punishment of suspending an employee without pay is provided thereunder. Therefore, I have no difficulty to hold that punishment imposed upon the Complainant is contrary to Model Standing Orders. Accordingly, I answer Issue No. 1 in the affirmative. The Bank is bound by Model Standing Orders but violated the same while imposing punishment to the Complainant. Its failure to abide provisions thereunder is clearly an unfair labour practices under item 9 of Schedule IV of the M.R.T.U. and P.U.L.P. Act. Accordingly, I answer issue No. 2 in the affirmative. However, I make it clear that the Bank is entitled to take appropriate action and impose appropriate punishment as per Model Standing Orders.

14. Finally, I pass following order :—

Order

(i) The complaint is partly allowed.

(ii) It is declared that the Respondent has committed unfair labour practices under item 9 of schedule IV of the M.R.T.U. and P.U.L.P. Act.

(iii) The Respondent Bank is directed to cease and desist from engaging in such unfair labour practice forthwith.

(iv) Punishment order dated 14th October 1995 suspending the Complainant for 4 days, without pay, is set aside. The Bank is at liberty to take appropriate action as per Model Standing Orders.

(v) No order as to costs.

Kolhapur,
Dated the 27th January 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

**BEFORE THE MEMBER, INDUSTRIAL COURT, MAHARASHTRA
AT KOLHAPUR**

COMPLAINT (ULP) Nos. 685 of 2001 and 727 of 2001.—Kolhapur Zilla Sahakari Sanstha Gatsachiv Sanghatana, 635, C, Bindu Chowk, Kolhapur, through its President.—*Complainant*.—*Versus*—Kolhapur Zilla Sahakari Dekharekh Sangh, Kolhapur, K.D.C.C. Bank Building, 1092-E, Shahupuri, Kolhapur.—*Respondent*.

In the matter of Complaint under section 28(1) read with items 5, 6, 9 and 10 of Schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.— Shri C. A. Jadhav, Member.

Advocates.— Shri A. G. Pansare, Advocate for the Complainant.

Shri A. D. Patil, Advocate for the Respondent.

Common Judgement

These are Complaints by an union under section 28(1) read with items 5, 6, 9 and 10 of Scheduled IV of the M.R.T.U. and P.U.L.P. Act.

2. Rival pleadings in both complaints are almost identical. Eventually, both complaints are clubbed together. Common questions of law and facts are involved in both complaints and hence for the sake of convenience, both complaints are decided by common judgment and order.

3. Admittedly, the Respondent Kolhapur Zilla Sahakari Dekharekh Sangh, Kolhapur (hereinafter referred to as the District Cadre, is started by Government of Maharashtra in the year 1971 for entire Kolhapur District as provided under Maharashtra Co-operative Society Act. It is controlled by Co-operative Department of Government of Maharashtra. It can appoint as well as terminate its Secretaries working with concerned service Societies. It provides Secretaries to all service Societies working in all Taluka of entire Kolhapur District, to have better supervision and control on such societies.

4. It has come on the record that there were 870 service societies functioning in Kolhapur District in the year 1976. As such, it was not difficult for District Cadre to appoint and provide services of its Secretary to each of the Service Society. But number of Service Societies increased thereafter, from time to time and District Cadre was required to ask one Secretary to work for 3/4 Societies. Eventually, working of Service Societies was heavily disturbed. To over come, such problem, District Cadre empowered by its Resolution No. 7 dated 30th March, 1998 to clerks appointed by service societies to work as a Secretary and discharge all functions like of a Secretary and thus, became their employer. It has also an admitted position that employees named in Annexure A to both complaints are such converted secretaries, possess requisite qualification to work as full fledged Secretaries and have passed requisite independent written examination arranged by Co-operative Department of Government of Maharashtra.

5. It is case of the Complainant Union that it is duly registered under the Trade Unions Act and is the only union working in establishment of the Respondent-District Cadre. Employees named in Annexure 'A' of both complaints are in employment of District Cadre since many years and are doing regular work of a Secretary which is of perennial nature. However, they are not made permanent with the object of depriving them of the status and privileges of a permanent employee. In fact, the District Cadre is an 'industry' as defined under the I. D. Act and is governed by provisions thereunder. All such appointed Secretaries have to put continuous service more than 240 days in each calender year since the beginning of their employment. It is alleged that District Cadre is paying more wages to permanent Secretaries than the converted secretaries for no reason and the converted Secretaries are not made permanent in breach of standing orders. Thus, it is a favouritism to one set of workers, regardless of merits. In fact, it is statutory obligation of District Cadre to make the converted secretaries permanent and to extend benefits of permanency to them at par with permanent Secretaries. Failure to do so is an unfair labour practice under items 5, 6 9 and 10 of schedule IV of the M.R.T.U. and P.U.L.P. Act.

6. On above averments the Complainant Union has prayed for requisite declaration of unfair labour practice, directions to extend benefits of permanency to the converted Secretaries named in Annexure 'A' of the Complainant from 241st day of their employment and other consequent reliefs.

7. The District Cadre filed identical written statement at Exh. C-7 in Complaint (ULP) No. 685/2001 and Exh. C-3 in Complaint (ULP) No. 727 of 2001. It contended, at the outset, that the Complainants may be an Union registered under the Trade Unions Act but it be directed to establish as to whether it is registered for its all secretaries. In fact, Converted Secretaries named in the Annexures are not its members and no resolution is passed to file this complaint. As such, issue regarding maintainability of the complaint be framed and decide as a preliminary one. It is further contended that number of service societies increased from time to time but there were restrictions by Government of Maharashtra from the year 1976 on appointments of new secretaries. It was mandatory for service societies to appoint secretaries from District Cadre but not such secretary could be provided to each and every service societies. Therefore, clerks appointed by service-societies were given status of a regular secretary by resolution dated 30th March 1998. However, Co-operative Department of Government of Maharashtra did not permit their absorption or regularisation as a regular secretary. Eventually, they are not entitled to permanency. Thus, the District Cadre has come with a case that though the converted secretaries are its employees and doing work of perennial nature. It cannot grant permanency to them for want of sanction by Co-operative Department. There are no directions of Government to pay equal wages to them and hence they cannot claim equal wages *i. e.* at par with permanent Secretaries. As such, it has neither committed breach of Standing Orders not on unfair labour practice. All Converted Secretaries are well aware that they cannot be absorbed or regularised as regular secretaries but have filed false case. Finally the District Cadre has prayed for dismissal of the complaint.

8. Considering rival pleadings, following issues arise for my determination :—

(i) Does the Complainant Union prove that it is registered under the Trade Unions Act and is functioning in the Respondent District Cadre ?

(ii) Does the Union further prove that employees named in Annexure 'A' of the Complaints are its members ?

(iii) Does the Union further prove that District Cadre is under statutory obligation to make the converted Secretaries permanent on 241st day of their employment ?

(iv) Does the Union further prove that the District Cadre has shown favouritism or partiality to permanent Secretaries, regardless of merits ?

(v) Does the Union further prove that the District Cadre has continued Converted Secretaries as temporaries with the object of depriving them of the status and privileges of permanent employees ?

(vi) Does the Union further prove that the District Cadre has engaged in unfair labour practices under the M.R.T.U. and P.U.L.P. Act ? If yes, under what items ?

(vii) What order ?

9. My findings on above points are as under :—

(i) Yes.

(ii) Yes.

(iii) Yes.

(iv) Yes.

(v) Yes.

(vi) Yes, under items 5, 6 and 9 of schedule IV of the M.R.T.U. and P.U.L.P. Act.

(vii) Both complaints are partly allowed.

Reasons

10. I must state at the outset that both complaints were consolidated as agreed by both parties. Evidence adduced by them is kept in the file of Complaint (ULP) No. 685/2001 for convenience.

11. The Union has produced copy of its Registration Certificate with list Exh. U-17. Secretary Shri Sankpal of District Cadre has replied in the Cross-examination that the Complainant is the sole union functioning for District Cadre, all employees are its members and various settlements are entered into from time to time between the Union and the District Cadre. As such, I have no difficulty to hold that the Union is functioning in establishment of District Cadre and all Converted Secretaries named in Annexure 'A' of the Complaints are its members. Accordingly, I answer Issue Nos. 1 and 2 in the affirmative.

12. The Union has produced a Chart with list Exh. U-17/2 showing year wise number of Secretaries and number of Service-societies. It then filed affidavit (Exh. U-14) of its President Shri Bhuyekar. He has affirmed in terms of the Complaints. He replied in the cross-examination that District Cadre is paying dearness allowance at the rate of 200 per cent to converted Secretaries whereas 225 per cent to permanent Secretaries. He admitted that Government of Maharashtra has not accorded permission since 1977 for recruitment and appointment of new Secretaries.

13. District Cadre produced copy of its resolution No. 7 dated 31st March 1998, a Chart of required Secretaries as in October, 1997 and the correspondence with Divisional Joint Registrar of Co-operative Societies seeking permission to recruit secretaries, with list Exh. C-8. It then produced Talukawise Seniority List of all its Secretaries including converted one, with list Exh. C-12. Its Secretary Shri Sankpal deposed that Co-operative Department permitted concerned Clerks of Service Societies *i. e.* Converted Secretaries to sign and work as Secretaries, *vide* letter dated 30th December 1996. 454 Secretaries were required in October, 1997. All converted Secretaries have passed requisite written examination and possess requisite qualification to work as permanent secretary. He admitted in cross-examination that there were 1159 permanent Secretaries as on 30th June 1976, now there are only 491 secretaries and total number will not exceed 1159 if the converted secretaries are made permanent. He also clarified that District Cadre will not suffer adversely if equal wages are paid to concern converted secretaries as Kolhapur District Central Co-operative Bank has undertaken to identify deficit amount, if any, requires to be paid by the District Cadre.

14. Shri Pansare, learned advocate representing the Union vehemently argued that plea of Government's permission is totally after thought. There were 1159 secretaries as on 30th June, 1976. Many of them, have retired, resigned or terminated and now there are only 491 permanent secretaries. Both complaints are filed for and on behalf of 609 (585+24) Secretaries. It is needless to point out that all of them have passed requisite written examination, are qualified one and doing work of perennial nature. They were liable to be made permanent on completion of 240 days' continuous service as provided under the Model Standing Orders. But they are purposely not made permanent. Original permanent Secretaries are doing work of similar nature and as such, converted Secretaries are entitled to equal benefits *i. e.* at par with permanent secretaries. In support of his arguments, he relied on the decision of Bombay High Court in *Divisional Manager, Forest Development Corporation of Maharashtra Ltd. Nashik Vs. Chimna Arjun Jadhav reported in 2002 Lab. I. C. at page 1422.*

15. Shri A. D. Patil, learned Advocate representing the District Cadre replied that Co-operative Department is not according sanction for recruitment and appointment of Secretaries and thus the Complainants cannot be made permanent without their permission. As such, there is proper justification and no unfair labour practice under items 5 and 6 of schedule IV of the M.R.T.U. and P.U.L.P. Act is proved.

16. It is not necessary to reproduce factual position which is referred above. Converted Secretaries were initially working as clerks under respective service societies who are now in the employment of District Cadre. They have passed requisite examination and doing similar work like of permanent secretaries. Some of them are suspended and enquiry is going on against some others. Thus, District Cadre has totally supervision and control upon them. Resolution dated 31st March 1998 categorically establishes that there were 1159 Secretaries as on 30th June 1976. Chart produced with list Exh. U-17/2 shows that there are only 491 Secretaries at present. It consequently follows that remaining posts are vacant. District Cadres Secretary has replied that permanency of converted 609 Secretaries will not exceed the total number *i. e.* 1159. In my opinion, therefore, all Converted Secretaries are working against permanent post and doing work of perennial nature. As such, it was statutory obligation of District Cadre to confer permanency on them on putting continuous service of 240 days. Permanent as well as Converted Secretaries are doing same work and there is no justification whatsoever for paying less wages to converted Secretaries. It is observed in Forest Development Corporation of Maharashtra's case (referred above) that Court can issue directions of regularisation of absorption even in absence of sanctioned posts, as provided under section 30 of the M.R.T.U. and P.U.L.P. Act. In my judgment, sanctioned posts *i. e.* 1159 prevailing as on 30th June 1976 are still vacant. Consequently, District Cadre's plea of sanction by Co-operative Department does not stand to reason. The converted Secretaries can well be accommodated on the vacant posts of the then permanent Secretaries. I therefore hold that the District Cadre was under statutory obligation to make the converted Secretaries permanent from 241st day of their employment, showed favouritism to permanent employees regardless of merits and continued the converted Secretaries as temporaries with the object of depriving them from the benefits of permanency. Accordingly, I answer point Nos. 3, 4 and 5 in the affirmative. It consequently follows that the District Cadre has engaged in an unfair labour practices under items 5, 6 and 9 of schedule IV of the M.R.T.U. and P.U.L.P. Act. I answer point No. 6 accordingly.

17. Another material question that arises is as to from which date permanency and monetary benefits thereof are to be given to the converted Secretaries ? Advocate Pansare submitted that Converted Secretaries are in employment of District Cadre from 1st July 1998 and permanency benefits be given from dates of filing the complaints. He explained that Kolhapur District Central Co-operative Bank has passed resolution to identify the amount required to be paid by District Cadre. In reply, Advocate Shri Patil submitted that District Cadre is getting contribution of 2.5% only from service societies. Government will not be bearing monetary benefits of permanency and granting such benefits from the dates of filing the complaints will practically ruin the District Cadre. Besides, Kolhapur District Co-operative Bank is not in a position to identify excess expenditure as per old resolution of the year 1998. As such, benefits of permanency may be given from the date of the order if converted Secretaries are entitled to the same.

18. Complaint (ULP) No. 685/2001 is filed on 11th June 2001 whereas Complaint (ULP) No. 727/2001 on 13th July 2001. In my judgment, considering peculiar facts and circumstances of this case, it will be proper if both parties share the monetary liabilities. Difference in pay and allowances between permanent and converted Secretaries is not too much. In such circumstances, direction of making converted Secretaries permanent from 241st day of their employment with District Cadre but to extend benefits of permanency from 1st April 2002 will meet the ends of justice.

19. Before parting with the judgment, I must state that 18 converted Secretaries has stated in pursis Exh. C-10 and Exh. CU-1 are now no longer in employment. As such, they will be entitled to benefits of permanency if worked after 1st April 2002 till the date of discontinuation of their services.

20. To conclude, I pass following order :—

Order

(i) Both complaints are partly allowed.

(ii) It is declared that the Respondent District Cadre has engaged in unfair labour practices under items 5, 6 and 9 of schedule IV of the M.R.T.U. and P.U.L.P. Act.

(iii) The Respondent District Cadre is directed to cease and desist from engaging in such unfair labour practices forthwith.

(iv) The Respondent District Cadre is directed to issue order of permanency to Converted Secretaries named in Annexures 'A' of the complaints from 241st day of their employment with it, within one month from to-day. It is not necessary to issue said orders to the converted Secretaries who are not in employment as on to-day. The Respondent District Cadre is further directed to pay wages at par with the permanent Secretaries to all Converted Secretaries with effect from 1st April 2002.

(v) Parties shall bear their own costs.

(vi) A copy of this judgment be kept in other complaint.

Kolhapur,
Dated the 30th January 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

REVISION APPLICATION (ULP) No. 94 OF 1993.—The Principal, Government Polytechnic, Malvan, Dist. Sindhudurg.—*Petitioner—Versus—*Shri Prakash Govind Aparadh, Resident of Malvan (Medha), Tal. Malvan, Dist. Sindhudurg.—*Respondent*.

In the matter of revision under section 44 of the M.R.T.U. and P.U.L.P. Act.

CORAM.— Shri C. A. Jadhav, Member.

Advocates .— Shri D. J. Mangsule, Assistant Government Pleader for the Petitioner.

Shri D. N. Patil, Advocate for the Respondent.

Judgement

1. This is a revision by Original Respondent an employer challenging legality of judgment and order passed in Complaint (ULP) No. 327 of 1992 by Labour Court, Kolhapur, whereby he is directed to reinstate Original Complainant with continuity of service and other incidental benefits.

2. Admittedly, present Respondent (hereinafter called as the Complainant) was appointed by present Petitioner (hereinafter referred to as the employer) as a watchman on 1st May 1989 for a period of 29 days. He was then appointed, from time to time for fixed days till 24th July 1992 by intervals of one or two day. Ultimately, the employer served letter dated 27th July 1992 stating that his services have come to an end by 24th July 1992 as per earlier order dated 26th June 1992.

3. It is case of the Complainant that he was appointed on a permanent post of watchman, however, notional breaks were given from time to time to deprive him of the benefits of permanency. In fact, he has put in continuous service more than 240 days and has acquired status of a permanent employee. He has filed Complaint (ULP) No. 80/92 before the Industrial Court, Kolhapur on 6th March 1992 for permanency, wherein, show cause notice is issued to the employer. According to him, his termination is an unfair labour practice under item 1(a), (b), (d) and (f) of schedule IV of the M.R.T.U. and P.U.L.P. Act. He also made an application (Exh. U-2) for interim temporary reinstatement. Learned Labour Court directed the employer to allow him to work till 31st October 1992, *vide* order dated 6th October 1992. Eventually, he was allowed to join services with effect from 10th October 1992. The interim relief was continued till decision of main complaint.

4. The employer filed his say cum written statement at Exh. 17, *inter alia*, contending that the Complainant was temporarily appointed and that too on daily wages to guard Government properties. In fact, it was necessary to call suitable candidates from the Employment Exchange. However, it was time consuming process and therefore, the Complainant was directly recruited on temporary basis.

5. It is further contended that the Complainant ought to have approached Maharashtra Administrative Tribunal and cannot invoke jurisdiction under the M.R.T.U. and P.U.L.P. Act. Besides, the Complainant can approach State Selection Board for his recruitment. The employer, finally prayed for dismissal of interim application as well as the complaint.

6. Considering rival pleadings, learned Labour Court framed issues at Exh. 26. The parties then went to the trial. None of the parties led oral evidence but relied upon documentary evidence. The Complainant produced his appointment orders whereas the employer produced a chart showing working days of the Complainant. Learned Labour Court, on perusal of documentary evidence and hearing both parties, observed that the Complainant has put in continuous service of 240 days in twelve calendar months immediately preceding the date of his termination. The breaks are artificial or notional one and they do not affect continuity of service. It then observed that no case is proved by the employer as provided under section 2(OO)(bb) of the I. D. Act. Consequently, the termination is with undue haste and in violation of provisions under section 25 F of the I. D. Act. Ultimately, it allowed the complaint, as above, *vide* order dated 19th March 1993. The same is challenged in this revision.

7. I heard both sides, Considering rival pleadings, following points arises for my determination :—

(i) Whether impugned decision directing reinstatement with continuity of service and other incidental benefits, is justifiable ?

(ii) What order ?

8. My findings on above points are as under :—

(i) Yes.

(ii) The revision application is dismissed.

Reasons

9. Learned Assistant Government Pleader Shri Mangsule representing the employer tried to canvas that the Complainant was appointed for a specific purpose and for a specific period. As such, it was not necessary to pay retrenchment compensation. The very fact of his direct recruitment goes to show that he was temporarily appointed. But the learned Labour Court misconstrued all such facts and recorded a perverse finding.

10. Shri Patil, learned Advocate representing the Complainant replied that no evidence is brought on record to show that the Complainant was appointed for a specific purpose. The very clause in appointment order says that the appointment is terminable at any time, without notice, is contrary to the scope of section 2(oo) (bb) of the I. D. Act. As such, learned Labour Court has rightly allowed the complaint.

11. Learned Labour Court has recorded a finding of fact that the Complainant has put in more than 240 days service in twelve calender months immediately preceding the date of his termination. Burden lies upon the employer to establish that there was contract of employment with the Complainant and the termination is a result of non-renewal of contract. The very fact that the Complainant is still in employment goes to show that he was not appointed for a specific purpose and for a specific period. Clause in the appointment order that appointments are terminable at any time makes section 2(oo) (bb) of the I. D. Act negatory. I, therefore, find that learned Labour Court has rightly dis-believed plea of employer and rightly allowed the complaint. Accordingly, I answer point No. 1 in the affirmative and pass following order :—

Order

(i) The revision application is dismissed.

(ii) Parties shall bear their own costs.

Kolhapur,
Dated the 31st January 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

**BEFORE THE INDUSTRIAL COURT, MAHARASHTRA
AT KOLHAPUR**

REVISION APPLICATION (ULP) Nos. 4 to 17 of 1997.—Sangli Urban Co-operative Bank Ltd. Head Office, 404, Khanbhag, Sangli, through its General Manager/Chief Executive Officer.—*Petitioner.*—*Versus*—Case No. 4/97, (1) Rajendra Waman Kulkarni, Case No. 5/97, (2) Dhananjaya Moreshwar Mhaskar, Case No. 6/97, (3) Pradeep Krishnarao Joshi, Case No. 7/97, (4) Pundalik Maruti Kunte, Case No. 8/97, (5) Balkrishna J. Sahasrabuddhe, Case No. 9/97, (6) Rajendra K. Chavan, Case No. 10/97, (7) Kirshor Ramchandra Mangalvedhekar, Case No. 11/97, (8) Satish S. Deshpande, Case No. 12/97, (9) Mahesh B. Kulkarni, Case No. 13/97, (10) Ram H. Bargale, Case No. 14/97, (11) Vilas A. Havaladar, Case No. 15/97, (12) Shankar S. Kulkarni, Case No. 16/97, (13) Sarjerao L. Kamble, Case No. 17/97, (14) Ravindra V. Bhakare, All C/o. Bharatiya Mazdoor Sangh, Rajwada Chowk, Nagar Watchnalaya Building, Sangli.—*Respondents.*

In the matter of revision under section 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.— Shri C. A. Jadhav, Member.

Advocates.— Shri A. R. Toro, Advocate for the Petitioner.

Shri M. B. Kulkarni, Advocate for the Respondents.

Judgement

1. These are revision applications by Original Respondent-Bank challenging legality of Common Judgment and order passed in Complaint (ULP) Nos. 89 to 102 of 1995 by Labour Court, Sangli, whereby the Bank is directed to reinstate present “Respondents” Original Complainants with continuity of service and full backwages holding that the Bank has indulged into unfair labour practices under item 1(a), (b) and (d) of schedule IV of the M.R.T.U. and P.U.L.P. Act.

2. With consent of parties and for convenience, these revision applications are decided by a common judgment and order.

3. Admittedly, present Respondents (hereinafter referred to as the Original Complainant) were in employment of present Petitioner (hereinafter referred to as the Bank) on various posts. They were Office-bearers/Active Members of Sahakari Bank Karmachari Sang, Sangli. Various Agreements took place between the Bank and above Union (hereinafter referred to as the Sangh), from time to time. Last settlement took place on 16th June, 1995. It is an admitted position that the Bank Employees Union, Kolhapur (hereinafter referred to as the Representative Union) is recognised Union under the B.I.R. Act for banking industry for some Talukas of Kolhapur District as well as for entire Sangli District. It filed Complaint (ULP) 328 of 1994 in this Court against the Bank under the M.R.T.U. and P.U.L.P. Act, wherein, an interim order was passed on 12th October, 1994, whereby the Bank was restrained from altering service conditions of its employees, either unilaterally or through a Settlement with the Sangh or any other Union or group of employees, till final decision of the complaint. The Sangh challenged said interim order before the Honourable High Court, Bombay *vide* Writ Petition No. 4484 of 1994. Honourable High Court then stayed interim order dated 12th October, 1994 pending the hearing and final disposal of Writ Petition but finally, dismissed the Writ Petition on 28th August, 1995. The Bank informed by letter dated 8th September, 1995 to the Sangh that it is unable to implement Agreement dated 16th June, 1995 by virtue of interim order passed in Complaint (ULP) No. 328/1994. The Bank also informed that employee Shri Mangalvedhekar was nominated as Worker-Director on its Board of Directors, cannot be now continued as Workers Director.

4. Then the Complainants alongwith other office Bearers and Members of the Sangh took out a symbolic funeral procession. Morcha on 9th September, 1995 on account of termination of Agreement dated 16th June, 1995 by the Bank. The procession was in expression of protest of termination of Agreement by the Bank. The Morcha carried an effigy of Bank Management

which was burnt in the meeting after funeral procession. During the procession, slogans were given against the management protesting its decision of terminating the settlement dated 16th June, 1995. News of symbolic funeral procession and all further events thereafter, came to be published alongwith photographs in various local News papers.

5. The Bank then discharged all the Complainants by orders dated 18th and 19th September, 1995 alleging that they have indulged into various acts which are detrimental to Bank's interest the Bank has lost confidence and it is unadvisable to continue them in Bank's employment. The Bank also deposited one month's wages, in lieu of notices, in their respective Bank Accounts. Said order of discharge is the subject matter of all the complaints.

6. It is case of all Complainants that the Bank illegally terminated the Agreement dated 16th June 1995 Thereby all the bank employees felt aggrieved and took out a symbolic funeral procession-morcha to express their protest. Their such act was legal one and no defamatory slogans were given during the procession. In fact, they exercised their legitimate rights against misdeeds of the bank. All allegations in the discharges order are totally false and *malafide*. Their action has never adversely affected image or progress of the bank, directly or indirectly. Termination of their services without enquiry is contrary to the principles of natural justice, is victimisation, in the colourable exercise of employer's right and for patently false reasons. In fact, the Sangh has membership of 98% employees of the bank and is affiliated to Bhartiya Mazdoor Sangh. Besides, employees who are members of the representative union are favoured and they (Complainants) only are punished, which amounts to discrimination.

7. On above averments, the Complainants prayed for requisite declaration of an unfair labour practice, direction to reinstate them with continuity of service and full back wages and other consequential reliefs.

8. The Complainants also made interim application under section 30(2) of the M.R.T.U. and P.U.L.P. Act to direct the bank to allow them to join duties, till decision of main complaint.

9. The bank filed identical says and written statements challenging all material allegations made by the Complainants. It contended that the Bank Employees' Union (representative union) is approved and representative union under the B.I.R. Act, whereas the Sangh is not. As such, there could be no legal agreement or settlement between the Sangh and the bank. Even then, to maintain good relations, various agreements/settlements were entered into with Sangh and the last was dated 16th June, 1995. Representative union then obtained interim order dated 12th October, 1994 in Complaint (ULP) No. 328/1994. It was stayed by the Honourable High Court and hence, the agreement dated 16th June, 1995 cannot be implemented. However, Sangh's Writ Petition came to be dismissed and hence interim order dated 12th October, 1994 automatically came into force.

10. Eventually, agreement dated 16th June 1995 could not be implemented and hence, it was informed accordingly to the Sangh. As such, allegations of terminating the agreement are totally false.

11. It is further contended by the bank that all aforesaid facts and legal aspects of Court orders were well within the personal knowledge of the Complainants. Even then, they took out a symbolic funeral procession on 9th September, 1995 at about 3.00 p.m. alongwith other member employees and gave baseless indecent, improper and filthy slogans against bank management and its Directors. The procession was temporarily stopped near Vishwadarshan Apartments wherein bank's General Manager Shri Borgikar was residing and filthy slogans were given. All the Complainants took leading and active part in the procession. Their such conduct is well indicative of disobedient attitude towards judicial orders and it resulted into lowering down bank's image in the eyes of its customers and public at large. As a result of all such illegal and *malafide* activities of the Complainants, the bank lost confidence with them and their continuation in employment was not advisable. As such, they were deserving order of dismissal. However, a lenient view was taken and they were simply discharged from the employment

under provisions of Standing Orders. In fact, the Complainants and the Sangh ought to have resorted to Court of Law to ventilate alleged grievances of terminating agreement dated 16th June, 1995 and should not have resorted to the indecent ways *i. e.* taking funeral procession, etc.

12. It is further contended by the bank that order of discharge is not by way of dismissal and it has every right to justify its action by leading oral and documentary evidence before the Court and then manifested its intention to lead evidence.

13. To summaries, the bank denied all adverse allegations made by the Complainants and justified its action with a plea that it can lead evidence in the Court to substantiate its action. Finally it prayed for dismissal of interim application as well as the complaint.

14. Learned Labour Court, after hearing both parties, dismissed the interim application by common order dated 1st December, 1995. Revision Application (ULP) Nos. 500 to 513 of 1995 and Nos. 55 to 68 of 1996 preferred against said order, came to be dismissed by this Court on 11th July, 1996.

15. In the mean time, learned Labour Court, after hearing both parties, permitted the bank to lead evidence to substantiate its action *vide* order dated 1st December, 1995. It then framed issues at Exh. O-2 on 12th September, 1996 and the parties went to the trial. All complaints were clubbed together.

16. The Complainants then examined Shri Kishor Mangalwedhekar at Exh. U-39 who is Complainant of complaint (ULP) No. 95 of 1995 and Sangh's Secretary Shri Shinde at Exh. U-7. They also produced documentary evidence with lists Exh. U-16 and U-53. In rebuttal the bank examined its Asstt. General Manager, Shri Gokhale (Exh. C-40) and Advocate, Shri Mahesh Mane (Exh. C-45). It too also produced documentary evidence with list Exh. C-7.

17. Learned Labour Court on perusal of evidence and hearing both parties, firstly observed that burden lies upon the bank to justify its contentions in the discharge order. It then held that evidence of bank's Asstt. General Manager Shri Gokhale does not prove that filthy slogans were given against bank's management and General Manager, Shri Borgikar, as there are no sufficient particulars. It also observed that alleged report dated 15th September 1995 given by Shri Gokhale to General Manager, Shri Borgikar is not produced on record which is said to be relied while coming to the conclusion that the bank has lost confidence of the Complainants. It then observed that the Sangh and the Complainants have right to agitate their grievances in the manner provided under Law, in support of their demands. It then held that taking out a morcha on 9th September 1995 is within the rights of the Sangh and the Complainants. For that purpose, it relied on the decision in *Federation of Western India Employees Vs. Filmalaya Pvt. Ltd.* reported in 1981 Lab. I. C. at P. 1220 (Bombay High Court). It then held that the bank has failed to prove contentions in the discharge order and the termination is in unfair labour practices under items 1(a), (b), (d) of schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971.

18. The Complainants have not sought declaration of unfair labour practices in prayer clause of the complaints. Learned Labour Court, in that behalf, observed that labour legislation is a social legislation and strict rules of pleadings are not applicable. It is stated in title of complaint that it is under section 28 of the M.R.T.U. and P.U.L.P. Act and *interim relief* applications were filed claiming to be under section 30 of the M.R.T.U. and P.U.L.P. Act. Eventually, the complaints are well tenable.

19. As regards gainful employment of the Complainants, it is observed that the Complainants are getting their monthly wages as per the interim order and the bank has not proved that they are gainfully employed elsewhere. It then held that the Complainants are entitled to unpaid back wages, if any. Ultimately, it allowed all complaints, as above, *vide* common judgment and order dated 24th December, 1996. The same is challenged in these revision applications.

20. I heard both sides, Considering rival pleadings, following points arise for my determination :—

(i) Whether impugned findings that respective complaints are maintainable in their present form, is legal and proper ?

(ii) Whether impugned finding that the bank has failed to prove misconducts alleged in the discharge orders, is justifiable ?

(iii) Whether impugned finding that the bank has failed to prove that there are sufficient grounds for loss of confidence and to discharge services of the Complainants, is justifiable ?

(iv) Whether impugned finding that the bank has indulged into an unfair practice under items 1(a), (b), (d) of schedule IV of the M.R.T.U. and P.U.L.P. Act, is justifiable ?

(v) Whether impugned decision warrants revisional interference ?

(iv) What order ?

21. My findings on above points are as under :—

(i) Yes.

(ii) Yes.

(iii) Yes.

(iv) Yes.

(v) No.

(vi) All revision application are dismissed.

Reasons

22. It is stated in title of Original Complaints that it is under section 28 of the M.R.T.U. and P.U.L.P. Act. In the relief clause no prayer to declare unfair labour practice, is made. Interim applications are titled as under section 30 of the M.R.T.U. and P.U.L.P. Act.

23. In the background of above facts, Shri Toro learned Advocates representing the bank, vehemently argued that no specific items of respective unfair labour practices are pleaded, no relief of declaration of an unfair labour practices is prayed. Even then, relief of declaration of an unfair labour practice is given by the Labour Court. In fact, went he complaint itself was not maintainable the Labour Court exceeded its jurisdiction in declaring unfair labour practices.

24. Admittedly the Complainants were discharges from services. They approached Labour Court challenging said action under the M.R.T.U. and P.U.L.P. Act. The purpose of the M.R.T.U. and P.U.L.P. Act is to provide prevention of unfair labour practices and to constitute independent machinery to carry out the purposes of the Act. Advocate, Shri Toro relied on the decision in *Maharashtra State Road Transport Corporation Vs. Niranjana Gade* reported in 1985 (50) FLR at P. 1, wherein it is observed that it is not enough in a complaint filed under the M.R.T.U. and P.U.L.P. Act charging the employer with unfair labour practices to merely allege or to prove that the act is not justified for one or the other reasons. He also relied another decision in *Rameshchandra Vs. L. D. Mallik* reported in 1986 (52) FLR at P. 629, wherein it is observed that plea that the enquiry was unfair and improper should be spelt out as to how it was not fair and proper. I perused rival pleadings. It is alleged in the complaint that order of discharge is with a stigma, practically amounts to dismissal, is issued without holding enquiry and is unfair labour practice. The issues were also framed offer considering rival pleadings and various provisions under the M.R.T.U. and P.U.L.P. Act. In such circumstances, it cannot be accepted that failure to plead respective clauses under item-1 of schedule IV of the M.R.T.U. and P.U.L.P. Act, has resulted into prejudice to the bank. On the contrary, it is seen that both parties were aware of the case which they have to meet out. It is settled law that pleadings are to be construed liberally and one particular sentence or clause cannot be called out to read it out of

the context but the general terms and tenor of the pleadings as a whole, is to be considered. Adverments in the complaint substantially covered item 1 (a), (b), (d) of Schedule IV of the M.R.T.U. and P.U.L.P. Act, though not specifically pleaded. There are specific allegations as to how order of discharge is by way of victimisation, not in good faith but colourable exercise of employer's rights and for patently false reasons. Advocate Shri Toro did not point out as to what was prejudice to the bank due to non-mention of specific clauses under Item-I of Schedule IV of the M.R.T.U. and P.U.L.P. Act. The complaint is filed under the M.R.T.U. and P.U.L.P. Act before a Labour Court which clearly implies that the same is filed under Item-1 of Schedule IV of the M.R.T.U. and P.U.L.P. Act. As such, arguments of Shri Toro need to be repealed, holding that the complaints are maintainable in their present form. I find that the learned Labour Court has rightly held accordingly. I therefore, answer point No. 1 in the affirmative.

25. Before appreciating rival contentions regarding order discharging the Complainants from service, it is necessary to state certain material facts, at the out set, which are undisputed and well established on the record. The bank informed the Sangh by letter dated 8th September 1995 that it is unable to implement agreement dated 16th June 1995 due to interim order passed by this Court on 12th October 1994. As a protest to such letter and the action, Sangh took out symbolic funeral procession of bank management at about 3.00 p.m. on 9th September 1995 which ended into a meeting wherein an effigy of bank management was burnt. One Shri Baburao Chavan, Dist. President of Bhartiya Mazdoor Sangh delivered a speech in such meeting. News of all actions of the Sangh appeared in various local news papers.

26. Now turning to order of discharge the same runs in four pages. Learned Labour Court has referred material contentions therein in paragraph-13 of impugned judgment. It is not necessary to reproduce them in detail. In nutshell the bank has explained its inability to implement agreement dated 16th June 1995 on account of interim order passed by this Court is Complaint (ULP) No. 328/1994 on 12th October 1994, it is alleged that Sangh's action of taking symbolic funeral procession is contempt of interim order of this Court as well as of the High Court by misusing status of a union leader and such act of the Complainants has lowered down bank's image in the eyes of its customers and general public. All such acts have lost bank's confidence in them.

27. I must state at this stage itself that other contentions in the discharge order that (i) bank was required to file Complaint (ULP) No. 520/1994 and (ii) false allegations against the bank in Complaint (ULP) No. 129/1995. are subject matter of respective complaints which are still pending and, therefore, it cannot be accepted that these two alleged misconducts are proved. Even otherwise, the bank has not led material evidence so as to show that it was constrained to file Complaint (ULP) No. 520/1994 and allegation made in Complaint (ULP) No. 129/1995 were false. Thus, the main contention is taking out symbolic funeral procession, giving filthy slogans, making false allegations against the bank management regarding its internal matters in the final meeting and spoiling its image and reputation.

28. Shri Kulkarni, learned Advocate representing the Original Complainants, vehemently argued at the out set, that order of discharge is not simple one but stigmatic and hence, it was incumbent upon the bank to hold an enquiry. Besides, none of the Complainants were holding post of trust and confidence and hence, alleged orders of discharge are liable to be set aside on this sole count. He then canvassed that, in such cases, an employer-bank is not entitled to justify its action by leading evidence before this Court.

29. Advocate Shri Toro replied that the bank has specifically stated in paragraph-4 of written statement that it wishes to lead evidence to substantial its action. The Labour Court then permitted the bank to lead evidence, *vide* order below Exh. C-5 and C-9. The same is nowhere challenged and hence, now the Complainants cannot say that the bank is not entitled to lead evidence.

30. The bank has categorically pleaded in paragraph-5 of its written statement that it wishes to lead evidence to substantiate its action. It then filed separate application (Exh. C-5) seeking permission to lead evidence to substantiate the contentions taken in the discharge order and to justify its action before the Court. Learned Labour Court then allowed the bank to lead oral and documentary evidence to justify its action. Simultaneously, the Complainants were also permitted to lead evidence in defence. The Complainants have not challenged said order. As such, now they are not entitled to plead that the bank was not entitled to justify its action by leading evidence before the Court.

31. Besides, the complaint is filed under the M.R.T.U. and P.U.L.P. Act. It is held in *K. Laxman Vs. Management of M/s. Pan-American World Airways* reported in 1987 I LLJ at P. 107 that if there is no proper domestic enquiry or no enquiry at all, before disciplinary action is taken, it is open to the employer to ask for such an opportunity. Relying upon this decision of Honourable Apex Court. It is held in *Madhukar R. Mahadik Vs. Indian News Papers Pvt. Ltd.* reported in 1992 I CLR at P. 1001 that misconduct can be proved in the proceeding of complaint under the M.R.T.U. and P.U.L.P. Act, when services are terminated for misconduct without holding domestic enquiry. It was contended by the management in Mahadik's case that employee's conduct was of impulsive nature and it was unsafe to keep him in service or keep him under suspension. Thus, plea of loss of confidence was raised. Considering observations in above judgment, I hold that the bank was entitled to lead evidence to justify its action. Eventuality, arguments of Advocate Shri Kulkarni stand repelled.

32. Advocate Shri Kulkarni further argued that none of the Complainants were holding post of trust and confidence, but working as clerks. As such, plea of loss of confidence cannot be raised by the bank. Discharge orders are not 'discharge simpliciter', but with a stigma and amount to punishment. As such, an enquiry was must. He placed reliance on the decisions in *Om Prakash Goyal Vs. Himachal Pradesh Tourism Corporation* reported in AIR 1991 SC at P. 1490 and *Bharati Co-operative Bank Ltd. Vs. K. L. Bariya, Judge, Labour Court and Another* reported in 1998 I Bank Commercial Law Reporter at P. 299.

33. Advocate Shri Toro replied, relying upon decision in *L. Michael and another Vs. M/s. Johnson Pumps Ltd.* reported in 1975 I LLJ at P. 262 (Supreme Court) that utmost devotion, sincerity, integrity and honesty is required in a banking industry as the very business of the banking is upon trust and faith of customers. It is not necessary that concerned employee must hold the post of confidence and then only can be terminated on the ground of loss of confidence.

34. In my judgment, plea of loss of confidence need not necessarily be confined only to the employee holding confidential posts and not to others. Every contract of employment implies trust and confidence as its ingredients. Some posts happen to be of highly confidential nature. But that does not mean that confidence in employee is a dispensable element in other post. Every contract of employment implies a term that the employee shall serve his employer with good faith and fidelity. In Michael's case (referred *supra*) a distinction is made between the 'employee', particularly one holding a post of confidence and one who does not so hold such post and it is emphasised that in later cases there should not be a mere whim or a fancy. In *Tata Engineering and Locomotive Ltd. Vs. S. C. Prasad* reported in 1969 II LLJ at page 799, a workman was not holding post of confidence and still was discharged on the ground of loss of confidence. Thus, it is not possible to underestimate the element of such confidence in the harmonious, smooth and effective working of any undertaking. The Court has however, to ensure that claim of 'loss of confidence' is genuine and is based on objective facts least the protection afforded to the workman, becomes illusory. In cases of workmen not holding post of confidence, a proof is necessary to show that acts or commissions lead to employer's loss of confidence in him. As such, Bank's plea 'loss of confidence' does not automatically fail merely because the Complainants were not holding post of confidential nature.

35. No turning to the orders of discharge, undoubtedly, it is not a discharge simpliciter but contains various allegations of misconducts against the Complainants. It is held in Goel's case (referred *supra*) that it is always open to the Court to go behind the form of termination

order and to verify as to whether the same in reality a clock for an order of punishment. It is held in Bharati Co-operative Bank's case (referred *supra*) that plea of termination simpliciter is not tenable if specific allegations of misconduct are made. Eventually, it cannot be accepted that the Complainants are simply discharged, on the contrary, they are punished under the clock of discharge orders. In my judgment, therefore, bearing such proportion in mind the bank has led evidence before the Labour Court to substantiate its action.

36. Now reverting back to the factual aspects, it has come in evidence led before the Labour Court that symbolic funeral procession was taken out at 3.00 p.m. on 9th September 1995 from bank's main branch to its head office, and an effigy was burnt in the meeting after end of the procession. During the procession, slogans were given against management protesting its decision of not implementing settlement dated 16th June 1995. News thereof was published alongwith photograph in various local news papers. Xerox copies of the news and photographs thereof are produced by the bank with list Exhs. C-7/10 to 14. Witness Shri Mangalwedhekar admitted publication of respective news in the local news papers. The bank then made application (Exh. C-34) that Xerox copies of respective news alongwith photographs be exhibited and read in evidence. The Complainants filed an application (Exh. U-56) on same day stating that one uniform rule may be followed and the news papers produced by them also be exhibited and admitted in evidence. Learned Labour Court then passed an order that news papers produced by the Complainants be exhibited and news papers produced by the bank be exhibited for the purpose of reference.

37. Advocate Shri Toro argued that learned Labour Court exhibited and admitted all news papers cuttings, in evidence. Strict provisions under the Indian Evidence Act are not applicable to the proceedings before Labour and Industrial Court. It is stated in the news paper cuttings (Exh. C-35) dated 10th September 1995 that a demand to appoint and Administrator on the bank was made in the meeting which ended after funeral procession. Allegations were also made that no dividend is made since three years and the bank has lost its 'A' class. Working of all branches was paralysed when the Sangh made demonstrations from 22nd November 1994 to 29th November 1994. Admitted things need not be proved. The Complainants exceeded their rights by taking out symbolic funeral procession and making wild allegations against bank management regarding its class, non-payment of dividend and appointing Administrator by dissolving Board of Directors. Section-18 of the Trade Unions Act does not legalise all such activities. The bank bonafidely found that continuation of respective Complainants in the employment is not advisable and now there is no confidence in their working. He further explained that various speeches delivered in the meeting cannot be disowned by the Complainants as the procession was organised by them and Shri Baburao Chavan who is District President of Bhartiya Mazdoor Sangh, to whom the Sangh is affiliated. In fact, bank's evidence is scrutinised by the Labour Court as if it has to prove contents in the discharge order beyond reasonable doubt and this is an error apparent on the face of record. Loss of confidence is the cumulative effect of all such baseless and irresponsible acts. It cannot be ignored that the bank took risk despite interim orders obtained by the Representative Union and entered into settlement dated 16th June 1995. However, it had no alternate after confirmation of interim order by the Honourable High Court, to show its inability to implement the same and then informed accordingly to the Sangh. As such, there was no need to protest in any manner whatsoever, bank's such action. The procession, abusive slogans therein and various comments in the meeting regarding bank's internal management, were totally unjustifiable. The Labour Court did not appreciate all such facts but rather ignored them and recorded a perverse finding that contentions in discharge orders are not proved.

38. Advocate Shri Kulkarni replied that right to make demonstrations is covered by either or both of the two freedoms, guaranteed by Article-19 (1) (a) and 19 (1) (b) of the Constitution. Section 18 of the Trade Unions Act is enacted in that context. Fact of publication of news is admitted but contents thereof are denied. Bank's witness Shri Gokhale has no personal knowledge. General Manager Shri Borgikar is not examined to prove that filthy slogans were given near his residence. Shri Baburao Chavan is neither employee of the bank nor could be

prevented in the meeting. Legitimate slogans given against the management is not a coercive action. As such, the Labour Court has rightly held that contents in the discharge order are not proved by the bank. In support of his arguments, he relied on the decisions in *Federation of Western India Cine Employees and others Vs. Filmalaya Pvt. Ltd.* reported in 1981 Lab. I. C. at P. 1220 and *M/s. Blaze Advertising Pvt. Ltd., Bombay Vs. Blaze Advertising and Allied Companies Employees, Union* reported in 1985 Lab. I. C. at P. 1015.

39. I must state, in the beginning itself, that bank's Asstt. General Manager Shri Gokhale has no personal knowledge of the incident. Admittedly, he was not present in the symbolic funeral procession and the final meeting thereafter. Alleged report submitted by him is not produced on record. As such, it can not be accepted that the Complainants gave filthy slogans near residence of bank's General Manager Shri Borgikar.

40. As regards legality of the procession and meeting thereafter, provisions under section 18 of the Trade Unions Act are important. It is observed in *Western India Cine Employees' Union's case* (referred *supra*) that trade unionism is universally recognised phenomenon and the law has recognised the existence of trade unions as well as scope and ambit of their legitimate activities. Decision of Honourable Apex Court in *Sakal Pvt. Ltd. Vs. Union of India and others* reported in 1962 Supreme Court at P. 305 holding that the freedom of speech and expression includes freedom of propagation of ideas and that this freedom is insured by the freedom of circulation, is relied. Another decision of Honourable Apex Court in *Rambahadur Rai Vs. State of Bihar* reported in AIR 1975 SC at P. 223 illustrating the meaning and scope of term 'agitation' is also relied. It is observed that legitimate activities of trade unions, depending upon facts and circumstances of each case are protected by section 18 of the Trade Unions Act. In the present case, fact of taking symbolic funeral procession and the meeting thereafter is admitted. Considering observations in above decisions, above fact cannot be said to be a misconduct under the Standing Orders as the same is protected by section 18 of the Trade Unions Act. No. doubt, the bank was bound by the interim orders of this Court and was unable to implement the agreement dated 16th June 1995. However, at the same time, legitimate rights of the Complainants to protest against such act, cannot be branded as a misconduct. Consequential contents in discharge order of taking out a symbolic funeral procession cannot be said to be a misconduct. It also held in *Blaze Advertising Company's decision* (referred *supra*), that slogans addressing an employer as 'thief' is not a coercive action.

41. The next question arises as to whether unwarranted comments in the final meeting regarding quality of bank management, its class, need to appoint an Administrator by dissolving Board of Directors etc. can be attributed against the Complainants. In my judgment, as per news paper cuttings, such was the statement of Shri Baburao Chavan alone. Admittedly, he is not an employee of the bank. Advocate Shri Kulkarni rightly submitted that Complainants cannot be punished for alleged statements of Shri Baburao Chavan. In my opinion, misconduct cant not be attributed against the employee regarding acts of a non-employee or a third party, Vicarious liability cannot be fixed upon the Complainants for statements of Shri Baburao Chavan. There is no satisfying and convincing evidence on bank's part to show that the Complainants exceeded their legitimate rights under section 18 of the Trade Unions Act. At the costs of reputation, I say that justifiability of their action is one thing and whether such action is a misconduct is another thing. Symbolic funeral procession may not be justifiable in the peculiar facts and circumstances, but that does not mean that it is a misconduct. I, therefore, find that learned Labour Court has rightly held that the Bank has failed to prove alleged misconducts in the discharge order. I also find that there were no sufficient grounds to show that the Bank has lost confidence of the Complainants. Evidence brought on record does not prove that inference of loss of confidence was rational and prudent.

42. Before answering Point Nos. 2 and 3. I must make it clear that I have not re-appreciated the evidence, however, has referred the same to verify as to whether impugned findings are perverse or justifiable. I find that learned Labour Court has rightly dis-believed Bank's plea of loss of confidence.

43. As regards previous litigation *i. e.* challenging transfer orders *vide* Complaint (ULP) No. 131 of 1995 by the Sangh and requirement of the Bank to file Complaint (ULP) No. 524 of 1994 to direct the Bank employees to join duties, both complaints were pending when orders of discharge were issued. In my judgment, as the complaints were pending, inferences of motives thereof were premature on the date of issuing orders of discharge. The Bank's witness Shri Mane has withdrawn amounts of Fixed Deposit Receipts for his own reasons and not due to legitimate action of the Complainants. Learned Labour Court, therefore, has rightly observed that the Bank was not entitle to raise unilateral contentions regarding two complaint.

44. To sum up, impugned findings disbelieving Bank's plea of loss of confidence, are well justifiable. Accordingly, I answer point Nos. 2 and 3 in the affirmative.

45. The Bank has pleaded in its written statement (Exh. C-3) that compensation may be awarded to the Complainants in lieu of reinstatement so as to maintain industrial peace and interest of its numerous customers. No serious arguments were advanced before me regarding such plea by either of the Advocates. Even then, I find that the Complainants are out of employment for many years and now the discord between the Sangh and the Bank is practically over. They are not holding any administrative or supervisory posts. As such, their reinstatement will not be detrimental to functioning of the Bank. Thus, learned Labour Court has rightly directed reinstatement with continuity of service and full back wages.

46. To summarise, learned Labour Court has rightly allowed the complaints by disbelieving plea of loss of confidence. It has rightly held that the Bank has indulged into respective unfair labour practices under the M.R.T.U. and P.U.L.P. Act. There is no perversity or arbitrariness in its finding. On the contrary, there is every substance in the reasoning thereof. As such, no interference is called for. Accordingly, I answer point No. 4 in the affirmative, point No. 5 in the negative and pass following order :—

Order

- (i) All revision application are dismissed.
- (ii) A copy of this judgment be kept in other revision application.
- (iii) Parties toll bear their own costs.

Kolhapur,
Dated the 13th January 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

**BEFORE THE INDUSTRIAL COURT, MAHARASHTRA
AT KOLHAPUR**

REVISION APPLICATION (ULP) Nos. 198 of 1999 and 203 of 1999.—Shri Anandmurti Sahakari Pani-Purvatha Sanstha Ltd. Brahmanal, Tal. Palus, Dist. Sangli.—*Petitioner.*—(*Respondent in Revision (ULP) No. 203/1999.*)—*Versus*—Khanappa Laxman Gavade, R/o. Brahmanal, Tal. Palus, Dist. Sangli.—*Respondent.*—(*Petitioner in Revision (ULP) No. 203/1999.*)

In the matter of revision under section 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.— Shri C. A. Jadhav, Member.

Advocates.— Shri K. D. Shinde, Advocate for the Petitioner.

Shri S. S. Sheth, Advocate for the Respondent.

Judgement

1. These revisions are arising out of judgment and order passed in Complaint (ULP) No. 145 of 1992 by Labour Court, Sangli, whereby an Employer is directed to pay wages to its employee for the period from 24th April, 1992 till completion of his 60 years *i. e.* 20th November, 1997 holding that his termination with effect from 15th April, 1992 is an unfair labour practice.

2. Revision Application (ULP) No. 1998/1999 is preferred by the Employer challenging entire decision whereas Revision Application (ULP) No. 203 of 1999 by the employee regarding refusal of back wages for the period from 21st November, 1997 till 20th November, 2001.

3. Admittedly, Petitioner of Revision (ULP) No. 198/1999 who is Respondent of Revision Application (ULP) No. 203/1999 is a Co-operative Society (hereinafter referred to as the Society) registered under the Maharashtra Co-operative Societies Act and is engaged in supplying water to its member-agriculturists. Respondent of Revision (ULP) No. 198/1999 who is petitioner of Revision Application (ULP) No. 203/1999 (hereinafter called as the Complainant) started working under the Society as its employee from 13th July, 1987. The Society then served notice dated 15th March, 1992 upon him alleging that his work is unsatisfactory, there is no improvement in his working despite instructions and hence his services are discharged after one month.

4. Above complaint was filed on 30th June, 1992 alleging unfair labour practices under items 1(a), (b), (d) and (f) of schedule IV of the M.R.T.U. and P.U.L.P. Act, *inter-alia*, contending that the Complainant started working as an accountant with the Society on 13th July, 1987 and his service were actually terminated on 23rd April, 1982, as per notice dated 15th March, 1992. He was also working as a 'Patkari' and supervising work of constructing pipe-line etc. It is alleged that the Society desired to appoint one Shri Yashwant Ranoji Gadade in his place and, therefore, his services were illegality terminated. No charge sheet was given to him nor an enquiry was made regarding allegations in the notice dated 15th March, 1992 about his unsatisfactory work. Besides, provisions of section 25-F of the I. D. Act were not followed. As such, his termination is bad in law. Finally, he prayed for requisite declaration of unfair labour practice, reinstatement with continuity of service and full back wages and other consequential reliefs.

5. The Complainant also made an application (Exh. U-2) under section 30(2) of the M.R.T.U. and P.U.L.P. Act to direct the Society to allow him to join duties, till decision of main complaint.

6. The Society filed its say *cum* written statement at Exh. C-1 contending at the outset that the Complainant was neither appointed nor worked as an accountant but was working as a 'Patkari'. For that purpose, the Complainant ought to be physically fit. Complainant's birth date is 9th November, 1926. Age of superannuation, as per provisions of law, is 58 years. The Complainant was physically unfit to work as 'Patkari' and was not entitled to continue in employment after completing 58 years of age. Eventually, his services were terminated by issuing one month's notice. Thus, the society justified its action and prayed for dismissal of interim application as well as the complaint.

7. Considering rival pleadings, Labour Court framed issues at Exh. O-3 and the parties went to the trial. The Complainant produced order dated 15th March, 1992 and further examined himself on oath at Exh. U-16. He filed pursis Exh. U-14 on 20th November, 1997 declaring that his age is 60 years. The Society produced xerox copy of School Leaving Certificate of one "Khanu Laxman Gavade". wherein his birth date is stated as 9th November, 1926. It then produced certificate dated 14th July, 1999 issued by Sarpancha of Brahmanal Grampanchayat that Khanappa Laxman Gavade, Khanu Laxman Gavade are one and the same person. It then examined its Chairman at Exh. C-4.

8. Learned Labour Court, on perusal of evidence and hearing both parties, observed that Societies plea in the evidence is contrary to its pleadings and hence cannot be believed. It then observed that Complainant's termination without payment of retrenchment compensation is contrary to provisions of section 25 F of the I. D. Act and is an unfair labour practice. It then held that the Complainant has completed 60 years of age on 20th November, 1997, hence cannot be physically reinstate and hence is entitled to wages for the period from 24th April, 1992 till 20th November, 1997. Finally, it partly allowed the complaint as above, *vide* judgment and order dated 26th October, 1999. The same is challenged in these revisions.

9. I heard both Advocates. Considering rival submissions, following points arise for my determination :—

(i) Whether impugned finding that Complainant's termination is an unfair labour practices, is justifiable ?

(ii) Whether impugned finding that the Complainant is entitled to back wages only for the period from 24th April, 1999 till 20th November, 1997 is justifiable ?

(iii) What order ?

10. My findings on above points are as under :—

(i) Yes.

(ii) Yes.

(iii) Both revision applications are dismissed.

Reasons

11. This being a revision under section 44 of the M.R.T.U. and P.U.L.P. Act, it is not necessary to scrutinise rival contentions meticulously. The only material question is whether documents on record are incapable of supporting impugned decision. In other words, whether impugned decision is perverse or justifiable ?

12. Shri Shinde, learned Advocate representing the society vehemently argued that the society is working within the area of Brahmanal village only. There is only one School at Brahmanal *i. e.* of Zilla Parishad. The Complainant himself is unwilling to state his real birth date. On the other hand, the society produced his School Leaving Certificate as well as Certificate of Sarpanch that Khanappa Laxman Gavade and Khanu Laxman Gavade are one and the same person. As such, the society produced available better evidence. Termination order needs to be construed in the background of such facts. The Complainant completed 58 years of age and hence was simply discharged. It is not stigmatic one and hence no enquiry was necessary.

13. Shri Sheth, learned Advocate representing the Complainant filed written arguments (Exh. U-4) and also made oral submission. He submitted that learned Labour Court has rightly dis-believed societies plea.

14. It is not in dispute that the Complainant was in employment of the society from 13th July, 1987. There is nothing on record to show that he was working as an Accountant. On the contrary, Society's letter dated 15th March, 1992 says that he was working as 'Patkari'. The Society has come with a case that it has terminated services of the Complainant as he attains the age of superannuation. Eventually, burden lies upon the society to substantiate such plea. It is mainly relying upon Xerox copy of School Leaving Certificate and Certificate of the Sarpanch. Interestingly both documents are not proved. No person from the School and the Sarpanch are examined. Consequently, contents of both documents cannot be relied. The

Complainant has specifically denied that his birth date is 9th November, 1926. Eventually, learned Labour Court has rightly dis-believed societies plea of Superannuation. No doubt, the Complainant has not stated his birth date that does not automatically mean that two documents produced by the society, must be believed. Contents thereof have to be proved to accept its contents. The Complainant has admittedly put continuous service of more than 240 days within the twelve calendar months immediately preceding the date of his termination. Consequently, it was necessary for the Society to pay requisite retrenchment compensation to him. Admittedly, his service are terminated without payment of retrenchment compensation.

15. Advocate Shri Shinde, tried to caves that Labour Court has set-aside the termination order dated 15th March, 1992 but has granted wages with effect from 24th April, 1992 and there is no discussions regarding alleged termination dated 24th April, 1992. I am not impressed by such arguments. The termination without payment of retrenchment compensation is bad in law. The Complainant is bound by his statement that he worked till 23rd April, 1992. Eventually the labour Court has rightly granted back wages from 24th April, 1992. I, therefore, find that the labour Court has rightly held Complainant's termination as an unfair labour practice. Accordingly, I answer point No. 1 in the affirmative.

16. Advocate Shri Sheth submitted that the Complainant has stated his age as 52 while filing the complaint. Eventually, he has completed 60 years on 20th November, 2001 and is entitled to back wages till such date. Inference drawn by labour Court that he has completed 60 years as on 20th November, 1997 is without evidence and perverse one.

17. Advocate Shri Shinde replied that the Complainant, in any case is bound by his pursis Exh. U-14. The same is personally signed by the Complainant as well as his Advocate.

18. There is no explanation whatsoever by the Complainant regarding pursis Exh. 14 dated 20th November, 1997, whereby he has declared that his age is 60 years. The same is signed personally by him. As such, now he is estopped from containing that he was not of 60 years and completed the same as on 20th November, 2001. I therefore, find that learned Labour Court has rightly held that the Complainant has completed 60 years as on 20th November, 1997 and granted back wages till such date. Accordingly, I answer point No. 2 in the affirmative.

19. To summarise, impugned decision does not spell of arbitrariness or perverse. On the contrary, there is every substance in its reasoning. Eventually, no interference is called for.

20. Finally, I pass following order :—

Order

- (i) Both revision application are dismissed.
- (ii) A copy of this judgment be kept in other revision application.
- (ii) Parties shall bear their own costs.

Kolhapur,
Dated the 1st February 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

पुढील अधिसूचना इत्यादी असाधारण राजपत्र म्हणून त्यांच्यासमोर दर्शविलेल्या दिनांकांना
प्रसिद्ध झाल्या आहेत.

१

गुरुवार, जानेवारी ३, २०१३/पौष १३, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,

मुंबई ४०० ०३२, दिनांक ३ जानेवारी २०१३

अधिसूचना

मुंबई दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक बीएसई-०६/२०१२/प्र.क्र. १६५/कामगार-१०.—मुंबई दुकाने व आस्थापना अधिनियम, १९४८ (सन १९४८ चा मुंबई एकोणऐंशी) (यात यापुढे ज्याचा “उक्त अधिनियम” असा उल्लेख करण्यात आलेला आहे.) यांच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकाराचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करित आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक “६०५” नंतर खालील नोंदीचा समावेश करण्यात येईल :—

“६०६ मे. क्रिष्णा पॅलेस रेसिडेन्सी
प्रा. लि., ९६/९८, स्लेटर रोड,
पटेल भवन, नाना चौक,
मुंबई ४०० ००७.

उक्त अधिनियमाच्या कलम १९ मधून खालील शर्तीच्या
अधीन राहून :—

- (१) सदर सूट ही शासन राजपत्रात अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून एक वर्षाच्या कालावधीकरिता लागू राहिल.
- (२) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती १२ तासांपेक्षा जास्त असणार नाही.
- (३) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकाराची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचना फलकावर आगाऊ लावण्यात यावे.
- (४) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दरानुसार अधिक वेतन देण्यात यावे.
- (५) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर एक तासाची विश्रांती देण्यात यावी.
- (६) महिला कर्मचाऱ्यांसाठी कामाच्या ठिकाणी स्वतंत्र लॉकर व विश्रांतीगृह यांची व्यवस्था करण्यात यावी.
- (७) आठवड्याच्या व इतर सुट्टीच्या दिवशी संमतीपत्र दिलेल्या कर्मचाऱ्यांनाच कामावर ठेवण्यात यावे.
- (८) सदर सूट ही मुंबई दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.
- (९) वरील अटी व शर्तीव्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.
- (१०) वरील पैकी कोणत्याही अटीचा व शर्तीचा भंग झाल्यास सूट आपोआप रद्द होईल.”

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ना. द. थोरवे,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE-06/2012/CR. 165/Lab-10, dated 3rd January 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. G. ASWALE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 3rd January 2013.

NOTIFICATION

BOMBAY SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE. 06/2012/CR. 165/Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Bombay Shops and Establishment Act, 1948 (Bom. LXXIX of 1948) hereinafter referred to as the said Act the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry “ 605 ” the following Entry shall be added namely :—

“ 606 M/s. Krishna Palace Residency Pvt. Ltd., 96/98, Slater Road, Patel Bhavan, Nana Chowk, Mumbai 400 007.	<p>Section 19 subject to the following Conditions :</p> <p>(1) This exemption shall remain in operation for the period of one year from the date of Notification published in Government Gazette.</p> <p>(2) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 12 hours in a day.</p> <p>(3) Every employee shall be given one day holiday in a week without making any deductions from</p>
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his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance.

- (4) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act.
- (5) Every employee shall be given a rest period of one hour after 5 hours of continuous work.
- (6) Female employees shall be provided separate lockers and rest rooms at the work place.
- (7) The employees, only who have given their consent shall be allowed to work on weekly off and on other holiday.
- (8) This exemption is related only to Bombay Shops and Establishment Act, 1948.
- (9) Other than these terms and conditions, all the provisions of this Act shall applicable to the establishment duly.
- (10) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled automatically.”

By order and in the name of the Governor of Maharashtra,

N. D. THORVE,
Section Officer.

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सोमवार, जानेवारी ७, २०१३/पौष १७, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक,
मंत्रालय, मुंबई ४०० ०३२, दिनांक ७ जानेवारी २०१३.

अधिसूचना

वेतन प्रदान अधिनियम, १९३६.

क्रमांक वेअप्र.२०१२/प्र.क्र.३३९/कामगार-७.—वेतन प्रदान अधिनियम, १९३६ (१९३६ चा चार) हा महाराष्ट्र राज्यास लागू असताना यांच्या कलम १५ च्या पोट-कलम (१) चा खंड (ड) अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून आणि शासकीय अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग क्रमांक वेअप्र २००८/प्र.क्र.९९४/कामगार-७. दिनांक ५ ऑगस्ट २००८ अधिक्रमित करून महाराष्ट्र शासन याद्वारे सोबतच्या अनुसूचीतील स्तंभ क्रमांक २ मध्ये नमूद केलेल्या प्राधिकृत अधिकाऱ्यांची

त्या अनुसूचीतील स्तंभ क्रमांक ३ मध्ये या प्रत्येकासमोर व विनिर्दिष्ट केलेल्या क्षेत्रांतील प्राधिकारी म्हणून त्या क्षेत्रांत नोकरीस असलेल्या किंवा वेतन देण्यात येणाऱ्या व्यक्तीच्या वेतनातून करण्यात येणाऱ्या वजातीमुळे किंवा उशीरा वेतन देण्यामुळे निर्माण होणाऱ्या सर्व दाव्यांची तसेच उक्त अधिनियमाखालील या अशा दाव्यांशी अनुषंगित असलेल्या सर्व प्रकरणांची सुनावणी करण्यासाठी आणि निर्णय देण्यासाठी प्राधिकारी म्हणून नियुक्ती करीत आहे.

अनुसूची

अ.क्र. (१)	अधिकारी (२)	क्षेत्रे (३)
१	पीठासीन अधिकारी, १ ते १२ कामगार न्यायालये, मुंबई	मुंबई शहर व मुंबई उपनगर जिल्हा (मुंबई महानगर पालिकेचे एन. एस. व टी वार्डस वगळून).
२	पीठासीन अधिकारी, १ ते ४ कामगार न्यायालये, ठाणे	मुंबई महानगर पालिकेचे एन. एस. व टी वार्डस, ठाणे जिल्हा व रायगड जिल्ह्यातील कर्जत व पनवेल तालुके.
३	पीठासीन अधिकारी, कामगार न्यायालय, महाड	रायगड जिल्हा (कर्जत व पनवेल तालुका वगळून)
४	पीठासीन अधिकारी, कामगार न्यायालय, रत्नागिरी	रत्नागिरी व सिंधुदुर्ग जिल्हा
५	पीठासीन अधिकारी, १ ते ४ कामगार न्यायालये, पुणे	पुणे जिल्हा
६	पीठासीन अधिकारी, कामगार न्यायालय, सातारा	सातारा जिल्हा
७	पीठासीन अधिकारी, कामगार न्यायालय, सांगली	सांगली जिल्हा
८	पीठासीन अधिकारी, १ व २ कामगार न्यायालये, कोल्हापूर	कोल्हापूर जिल्हा
९	पीठासीन अधिकारी, कामगार न्यायालय, सोलापूर	सोलापूर जिल्हा
१०	पीठासीन अधिकारी, १ व २ कामगार न्यायालये, नाशिक	नाशिक जिल्हा

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६
अनुसूची—चालू

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अ.क्र. (१)	अधिकारी (२)	क्षेत्रे (३)
११	पीठासीन अधिकारी, १ व २ कामगार न्यायालये, धुळे	धुळे व नंदूरबार जिल्हा
१२	पीठासीन अधिकारी १ व २ कामगार न्यायालये, अहमदनगर	अहमदनगर जिल्हा
१३	पीठासीन अधिकारी, कामगार न्यायालय, जळगाव	जळगाव जिल्हा
१४	पीठासीन अधिकारी, १ व २ कामगार न्यायालये, औरंगाबाद	औरंगाबाद व बीड जिल्हा
१५	पीठासीन अधिकारी, कामगार न्यायालय, जालना	जालना जिल्हा
१६	पीठासीन अधिकारी, कामगार न्यायालय, नांदेड	नांदेड, परभणी, हिंगोली जिल्हा
१७	पीठासीन अधिकारी, कामगार न्यायालय, लातूर	लातूर व उस्मानाबाद जिल्हा
१८	पीठासीन अधिकारी, कामगार न्यायालय, अमरावती	अमरावती जिल्हा
१९	पीठासीन अधिकारी, कामगार न्यायालय, बुलढाणा	बुलढाणा जिल्हा
२०	पीठासीन अधिकारी, कामगार न्यायालय, यवतमाळ	यवतमाळ जिल्हा
२१	पीठासीन अधिकारी, कामगार न्यायालय, अकोला	अकोला व वाशिम जिल्हा
२२	पीठासीन अधिकारी, १ ते ४ कामगार न्यायालये, नागपूर	नागपूर जिल्हा

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महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६
अनुसूची—समाप्त

अ.क्र. (१)	अधिकारी (२)	क्षेत्रे (३)
२३	पीठासीन अधिकारी, १ ते ४ कामगार न्यायालय, भंडारा	भंडारा जिल्हा
२४	पीठासीन अधिकारी, कामगार न्यायालय, चंद्रपूर	चंद्रपूर व गडचिरोली जिल्हा
२५	पीठासीन अधिकारी, कामगार न्यायालय, वर्धा	वर्धा जिल्हा
२६	पीठासीन अधिकारी, कामगार न्यायालय, गोंदिया	गोंदिया जिल्हा.

या अधिसूचनेतील कोणत्याही तरतुदीमुळे या अधिसूचनेच्या तारखेच्या लगत त्या प्राधिकाऱ्याच्या अंशतः सुनावणी झालेल्या कोणत्याही प्रलंबित प्रकरणांना बाधा पोचणार नाही आणि या अधिसूचनेपूर्वी अंशतः सुनावणी झालेली प्रकरणे ही अधिसूचना निर्गमित झालेलीच नव्हती असे गृहीत धरून सदर प्राधिकारी निकालात काढू शकतील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ज. आ. खवणेकर,
शासनाचे अवर सचिव.

In pursuance of Clause (3) of Articles 348 of the Constitution of India, the following translation in English of the Government Notification, published in the Maharashtra *Government Gazette*, Part I-L Extra Ordinary, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVANEKAR,

Under Secretary to Government.

INDSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 7th January 2013.

NOTIFICATION

PAYMENT OF WAGES ACT, 1936.

No. PWA. 2012/C.R. 339/Lab-7.— In exercise of the powers conferred by clause (d) sub section (1) of section 15 of the Payment of Wages Act, 1936 (IV of 1936) in its application to the State of Maharashtra, and in supersession of Government Notification, Industries, Energy and Labour Department, No. PWA 62008/CR-994/Lab-7 dated 5th August 2008, the Government of Maharashtra hereby appoints the presiding officers of the Labour Courts mentioned in Column (2) of the Schedule appended hereto be the authorities within the areas specified respectively against each of them in Column (3) of the Schedule, to hear and decide all claims arising out of deductions from the wages, or delay in payment of the wages of persons employed or paid in that area, including all matters incidental to such claims under the said Act.

Schedule

Sr. No. (1)	Officer (2)	Area (3)
1	Presiding Officer, 1st to 12th Labour Courts, Mumbai.	Mumbai City and Mumbai suburban District (Except N. S. and T Wards of the Mumbai Municipal Corporation).
2	Presiding Officer, 1st to 4th Labour Courts, Thane.	N. S and T Wards of the Mumbai Municipal Corporation, Thane District and Karjat and Panvel Talukas of Raigad District.
3	Presiding Officer, Labour Court, Mahad.	Raigad District (Except Karjat and Panvel Talukas).
4	Presiding Officer, Labour Court, Ratnagiri.	Ratnagiri and Sindhudurg Districts.
5	Presiding Officer, 1st to 4th Labour Court, Pune.	Pune District.
6	Presiding Officer, Labour Court, Satara.	Satara District.
7	Presiding Officer, Labour Court, Sangali.	Sangali District.
8	Presiding Officer, 1st and 2nd Labour Court, Kolhapur.	Kolhapur District.
9	Presiding Officer, Labour Court, Solapur.	Solapur District.
10	Presiding Officer, 1st and 2nd Labour Court, Nashik.	Nashik District.
11	Presiding Officer, Labour Court, Dhule.	Dhule and Nandurbar Districts.

Sr. No. (1)	Officer (2)	Area (3)
12	Presiding Officer, 1st and 2nd Labour Court, Ahmednagar.	Ahmednagar District.
13	Presiding Officer, Labour Court, Jalgaon.	Jalgaon District.
14	Presiding Officer, 1st and 2nd Labour Court, Aurangabad.	Aurangabad and Beed District.
15	Presiding Officer, Labour Court, Jalna.	Jalna District.
16	Presiding Officer, Labour Court, Nanded.	Nanded, Parbhani and Hingoli Districts.
17	Presiding Officer, Labour Court, Latur.	Latur and Osmanabad Districts.
18	Presiding Officer, Labour Court, Amravati.	Amravati District.
19	Presiding Officer, Labour Court, Buldhana.	Buldhana District.
20	Presiding Officer, Labour Court, Yeotmal.	Yeotmal District.
21	Presiding Officer, Labour Court, Akola.	Akola and Washim District.
22	Presiding Officer, 1st to 4th Labour Court, Nagpur.	Nagpur District.
23	Presiding Officer, Labour Court, Bhandara.	Bhandara District.

Sr. No. (1)	Officer (2)	Area (3)
24	Presiding Officer, Labour Court, Chandrapur.	Chandrapur and Gadchiroli District.
25	Presiding Officer, Labour Court, Wardha.	Wardha District.
26	Presiding Officer, Labour Court, Gondiya.	Gondiya District.

Nothing in this notification shall affect the part-heard cases pending immediately before the date of this notification on the file of the authority and those part-heard cases shall be disposed of by such authority as if this notification has not been issued.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVANEKAR,
Under Secretary to Government.

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

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मंगळवार, जानेवारी ८, २०१३/पौष १८, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरू चौक, मंत्रालय,

मुंबई ४०० ०३२, दिनांक ८ जानेवारी २०१३

अधिसूचना

महाराष्ट्र कामगार संघांना मान्यता देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत
अधिनियम, १९७१.

क्रमांक युएलपी-२०१२/सं.क्र. ५१३/प्र.क्र. १३३/काम-३.—महाराष्ट्र कामगार संघांना मान्यता
देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत अधिनियम, १९७१ (१९७२ चा एक)
यांच्या कलम ६ अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासनाने अधिसूचना
क्र. आयसीई-२९०/४३५/काम-२, दिनांक ५ मार्च १९९० अनुसार मुंबई येथे स्थापन केलेले कामगार

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महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

न्यायालय आता शासन अधिसूचना क्र. आयसीई-०८११/प्र.क्र. १०९/कामगार-६, दिनांक ९ एप्रिल २०१२
अन्वये नाशिक येथे स्थलांतरित केले आहे आणि त्या प्रयोजनार्थ महाराष्ट्र शासन, याद्वारे श्री. एस. झेड.
पवार, न्यायाधीश, कामगार न्यायालय यांची दुसरे कामगार न्यायालय, नाशिक येथे नियुक्ती करीत
आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. सा. चौधरी,
कार्यासन अधिकारी.

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,

जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

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In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. ULP-2012/C.R. 168/Lab-3, Dated the 8th January 2013. *Extra-ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 8th January 2013.

NOTIFICATION

MAHARASHTRA RECOGNITION OF TRADE UNIONS AND PREVENTION OF UNFAIR LABOUR PRACTICES ACT, 1971.

No. ULP-2012/R.N. 513/C.R. 133/Lab-3.—In exercise of the powers conferred by Section 6 of the Maharashtra recognition of Trade Unions and Prevention of Unfair Labour Practice Act, 1971 (1 of 1972), the Government of Maharashtra, having constituted the Labour Court of Mumbai *vide* Government Notification No. ULP-290/435/Lab-2 and having transferred the said court *vide* Government Notification No. ICE-0811/C.R. 109/Lab-6, Dated 9th April 2012 at Nashik hereby appoints Shri S. Z. Pawar, Judge, Labour Court, Mumbai to be the Judge, 2nd Labour Court, Nashik.

By order and in the name of the Governor of Maharashtra,

S. S. CHAUDHARI,
Desk Officer.

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महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,

जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

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मंगळवार, जानेवारी ८, २०१३/पौष १८, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,

मुंबई ४०० ०३२, दिनांक ८ जानेवारी २०१३

अधिसूचना

मुंबई दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक बीएसई-०९/२०११/प्र.क्र. २५१/कामगार-१०.—मुंबई दुकाने व आस्थापना अधिनियम, १९४८ (सन १९४८ चा मुंबई एकोणऐंशी) (यात यापुढे ज्याचा “ उक्त अधिनियम ” असा उल्लेख करण्यात आलेला आहे.) यांच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकाराचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करीत आहे :—

जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक “ ६०६ ” नंतर खालील नोंदीचा समावेश करण्यात येईल :—

- “ ६०७ मे. दिल्ली दरबार हॉटेल,
१९५/१९७, पी. बी. मार्ग,
ग्रँट रोड, मुंबई ४०० ००४. उक्त अधिनियमाच्या कलम १९ मधून खालील शर्तीच्या
अधीन राहून :—
- (१) सदर सूट ही शासन राजपत्रात अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून तीन वर्षांच्या कालावधीकरिता लागू राहील.
 - (२) आस्थापना पहाटे ३-०० नंतर उघडी ठेवण्यात येऊ नये.
 - (३) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती १२ तासांपेक्षा जास्त असणार नाही.
 - (४) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकाराची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचना फलकावर आगाऊ लावण्यात यावे.
 - (५) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दराने अधिक वेतन देण्यात यावे.
 - (६) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर एक तासाची विश्रांती देण्यात यावी.
 - (७) आठवड्याच्या व इतर सुट्टीच्या दिवशी संमती दिलेल्या कर्मचाऱ्यांनाच कामावर ठेवण्यात यावे.
 - (८) सदर सूट ही मुंबई दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.
 - (९) वरील अटी व शर्ती व्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.
 - (१०) वरील पैकी कोणत्याही अटीचा व शर्तीचा भंग झाल्यास सूट आपोआप रद्द होईल.”

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ना. द. थोरवे,
कार्यासन अधिकारी.

जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE-09/2011/CR. 251/Lab-10, dated 8th January 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT
Mantralaya, Mumbai 400 032, dated the 8th January 2013.

NOTIFICATION

BOMBAY SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE-09/2011/CR. 251/Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Bombay Shops and Establishment Act, 1948 (Bom. LXXIX of 1948) hereinafter referred to as the said Act the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry “ 606 ” the following Entry shall be added namely :—

- | | |
|--|---|
| <p>“ 607 M/s. Delhi Darbar Hotel,
195/197, P. B. Marg,
Grant Road,
Mumbai 400 004.</p> | <p>Section 19 subject to the following Conditions :—
(1) This exemption shall remain in operation for the period of three years from the date of Notification published in <i>Government Gazette</i>.
(2) The establishment shall not remain open later than 3-00 a.m.
(3) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 12 hours in a day.</p> |
|--|---|

- (4) Every employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance.
- (5) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act.
- (6) Every employee shall be given a rest period of one hour after 5 hours of continuous work.
- (7) The employees, who have given their consent be only placed on the day of weekly holiday or other holiday.
- (8) This exemption is related only to Bombay Shops and Establishment Act, 1948.
- (9) In spite of these terms and conditions, all the provisions of this Act shall be applicable to the establishment duly.
- (10) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled automatically."

By order and in the name of the Governor of Maharashtra,

N. D. THORVE,
Section Officer.

मंगळवार, जानेवारी ८, २०१३/पौष १८, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,

मुंबई ४०० ०३२, दिनांक ८ जानेवारी २०१३

अधिसूचना

संदर्भ.— उद्योग, ऊर्जा व कामगार विभाग यांची अधिसूचना क्र. आयसीई-१११२/प्र.क्र. १८०/कामगार-६, दिनांक ६ डिसेंबर २०१२.

महाराष्ट्र कामगार संघांना मान्यता देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत अधिनियम, १९७१.

क्रमांक युएलपी. २०१२/प्र.क्र. १६९/काम-३.—उपरोक्त संदर्भित अधिसूचनेस अनुसरून खाली नमूद केलेल्या न्यायिक अधिकाऱ्यांची सदस्य, औद्योगिक न्यायालय या पदावर महाराष्ट्र कामगार संघांना

मान्यता देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत अधिनियम, १९७१ (१९७२ चा एक) यांच्या कलम ४ अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे पुढीलप्रमाणे न्यायाधीशांची नियुक्ती करित आहे :—

अ.क्र.	न्यायाधीशांचे नाव व सध्याचे पदनाम	कोणाच्या जागी	सदस्यांचे नाव व नवीन पदनाम	शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
१	श्री. ए. झेड. तेलगोटे, दुसरे जिल्हा व अतिरिक्त सत्र न्यायाधीश, धुळे.	श्री. पी. एस. शिंदे.	श्री. ए. झेड. तेलगोटे, सदस्य, औद्योगिक न्यायालय, धुळे.	युएलपी-२००४/४/ सीआर-३८४०/ कामगार-३, दिनांक १० मे २००४.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. सा. चौधरी,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. ULP-2012/C.R. 169/Lab-3, Dated the 8th January 2013. *Extra Ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,
S. K. GAWDE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT
Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 8th January 2013.

NOTIFICATION

Ref.— Industries, Energy and Labour department Notification No. ICE-1112/C.R. 180/Lab-6, Dated 6th December 2012.

MAHARASHTRA RECOGNITION OF TRADE UNIONS AND PREVENTION OF UNFAIR LABOUR PRACTICES ACT, 1971.

G. N. No. ULP-2012/C.R. 169/Lab-3.—With reference to the Notification under reference, the Government of Maharashtra, hereby appoints the following Judicial Officer as Member of Industrial Court in exercise of the powers conferred by Section 4 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practice Act, 1971 (1 of 1972) :—

Sr. No.	Judge's Name and Present Designation	On Whose Place	Member Name and New Designation	Government Notification No.
(1)	(2)	(3)	(4)	(5)
1	Mr. A. Z. Telgote, 2nd District and Additional Sessions Judge, Dhule.	Shri P. S. Shinde	Mr. A. Z. Telgote, Member Industrial Court, Dhule.	ULP-2004/4/ C.R. 3840/Lab-3, Dt. 10th May 2004.

By order and in the name of the Governor of Maharashtra,

S. S. CHAUDHARI,
Desk Officer.

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

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मंगळवार, जानेवारी ८, २०१३/पौष १८, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक ८ जानेवारी २०१३

अधिसूचना

संदर्भ.— मा. उच्च न्यायालय, मुंबई यांची अधिसूचना क्रमांक ए-१२०१/२०१२,
दिनांक १८ डिसेंबर २०१२.

महाराष्ट्र कामगार संघांना मान्यता देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत
अधिनियम, १९७१.

क्रमांक युएलपी-२०१२/प्र.क्र. १७१/काम-३.—उपरोक्त संदर्भित अधिसूचनेस अनुसरून खाली नमूद
केलेल्या न्यायिक अधिकाऱ्यांची सदस्य, औद्योगिक न्यायालय या पदावर महाराष्ट्र कामगार संघांना

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महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

मान्यता देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत अधिनियम, १९७१ (१९७२ चा
एक) यांच्या कलम ४ अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे
पुढीलप्रमाणे न्यायाधीशांची नियुक्ती करित आहे :—

अ.क्र.	न्यायाधीशांचे नाव व सध्याचे पदनाम	कोणाच्या जागी	सदस्यांचे नाव व नवीन पदनाम	शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
१	श्री. व्ही. डब्ल्यु. हुड, सदस्य, औद्योगिक न्यायालय, नागपूर.	श्री. एस. व्ही. पाटील.	श्री. व्ही. डब्ल्यु. हुड, सदस्य, औद्योगिक न्यायालय, अकोला.	युएलपी-००९९/८८३/ कामगार-१०, दिनांक २१ जुलै १९९९.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. सा. चौधरी,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. ULP-2012/C.R. 171/Lab-3, Dated the 8th January 2013. *Extra Ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 8th January 2013.

NOTIFICATION

Ref.— Notification by High Court of Judicature Appellate Side,
No. A-1201/2012, Dated 18th December 2012.

MAHARASHTRA RECOGNITION OF TRADE UNIONS AND PREVENTION OF UNFAIR LABOUR PRACTICES ACT, 1971.

G. N. No. ULP-2012/C.R. 171/Lab-3.—With reference to the Notification under reference, the Government of Maharashtra, hereby appoints the following Judicial Officer as Member of Industrial Court in exercise of the powers conferred by Section 4 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practice Act, 1971 (1 of 1972) :—

Sr. No.	Judge's Name and Present Designation	On Whose Place	Member's Name and New Designation	Government Notification No.
(1)	(2)	(3)	(4)	(5)
1	Mr. V. W. Hood, Member, Industrial Court, Nagpur.	Shri S. V. Patil.	Mr. V. W. Hood, Member, Industrial Court, Akola.	ULP-0699/883/Lab-10, Dt. 21st July 1999.

By order and in the name of the Governor of Maharashtra,

S. S. CHAUDHARI,
Desk Officer.

बुधवार, जानेवारी १६, २०१३/पौष २६, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक १६ जानेवारी २०१३

अधिसूचना

क्रमांक आयसीई-१२१२/प्र.क्र. १९५/काम-६.—“ महाराष्ट्र चौकशी न्यायालये, कामगार न्यायालये व औद्योगिक न्यायालये यांचे न्यायीक अधिकारी (सेवा प्रवेश, नियुक्ती आणि शिस्तभंगविषयक कार्यवाही) नियम, १९९९ ” च्या नियम ५ नुसार प्रदान करण्यात आलेल्या अधिकारांचा वापर करून मा. उच्च न्यायालय, मुंबई यांनी त्यांचे पत्र क्र. अ १२२६/८३/११२००/२०१२, दिनांक १८ डिसेंबर २०१२ अन्वये केलेल्या शिफारशीनुसार श्री. निळकंठ वसंतराव देशमुख, यांची सदस्य औद्योगिक न्यायालय, लातूर या पदावर व श्रीमती पुष्पलता धनाजीराव देसाई, यांची सदस्य औद्योगिक न्यायालय, नागपूर या पदावर नियुक्ती करण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

दिपा ठाकूर,
कक्ष अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. ICE-1212/C.R. 195/Lab-6, dated the 16th January 2013, *Extra Ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 16th January 2013.

NOTIFICATION

No. ICE-1212/C.R. 195/Lab-6.—In exercise of the power conferred by Rule 5 of Maharashtra Judicial Officers of the Courts of Enquiry, Labour Court, Industrial Courts (Recruitment, Appointment and Disciplinary Action) Rule, 1999 and with reference to the letter No. A. 1226/83/11200/2012, dated 18 December 2012 from the Hon'ble High Court, Mumbai. The Government of Maharashtra hereby appoints Shri Nilkant Vasantrao Deshmukh as Member, Industrial Court, Latur and Ms. Pushpalata Dhanajirao Desai as Member, Industrial Court, Nagpur.

By order and in the name of the Governor of Maharashtra,

DEEPA THAKUR,
Desk Officer.

शुक्रवार, जानेवारी १८, २०१३/पौष २८, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,

मुंबई ४०० ०३२, दिनांक १८ जानेवारी २०१३

अधिसूचना

औद्योगिक विवाद अधिनियम, १९४७.

क्रमांक औविअ. १२२०१२/प्र.क्र. २३६/कामगार-२.—औद्योगिक विवाद अधिनियम, १९४७ (१९४७ चा चौदा) यांच्या कलम ७ अ व ८ अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, तसेच मा. उच्च न्यायालय, मुंबई यांची अधिसूचना क्रमांक ए-१२०१/२०१२, दिनांक १८ डिसेंबर २०१२ या अधिसूचनेस अनुसरून महाराष्ट्र शासन याद्वारे खाली नमूद केलेल्या न्यायिक अधिकाऱ्यांची पीठासीन अधिकारी, औद्योगिक न्यायाधिकरण या पदावर पुढीलप्रमाणे नियुक्ती करीत आहे :—

अ.क्र.	न्यायाधीशाचे नाव व सध्याचे पदनाम	कोणाच्या जागी	पीठासीन अधिकाऱ्याचे नाव व नवीन पदनाम	शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
१	श्री. व्ही. डब्ल्यू. हुड, पीठासीन अधिकारी, औद्योगिक न्यायाधिकरण नागपूर.	श्री. एस. व्ही. पाटील.	श्री. व्ही. डब्ल्यू. हुड, पीठासीन अधिकारी, औद्योगिक न्यायाधिकरण, अकोला.	आयडीए-०६९९/ १००७/काम-३, दिनांक १५ जुलै १९९९.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सं. धों. डगळे,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. IDA-122012/CR-236/LAB. 2, dated the 18th January 2013, *Extra Ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,
S. K. GAWADE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT
Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 18th January 2013.

NOTIFICATION

INDUSTRIAL DISPUTE ACT, 1947.

IDA. 122012/C.R.-236/LAB.2.—In exercise of the powers conferred by section 7A and 8 of the Industrial Dispute Act, 1947 (14 of 1947), and with reference to the Notification by High Court of Judicature, Appellate side, Bombay No. A-1201/2012, dated 18th December 2012, the Government of Maharashtra hereby appoints the following Judicial Officer as Presiding Officer of Industrial Tribunal :—

Sr. No.	Judge's Name and Present Designation	On Whose Place	Presiding Officer's Name and New Designation	Government Notification No.
(1)	(2)	(3)	(4)	(5)
1	Shri V. W. Hood, Presiding Officer, Industrial Tribunal, Nagpur.	Shri S. V. Patil.	Shri V. W. Hood, Presiding Officer, Industrial Tribunal, Akola.	IDA-0699/1007/ Lab-3, Dt. 15th July 1999.

By order and in the name of the Governor of Maharashtra,

S. D. DAGALE,
Desk Officer.

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शुक्रवार, जानेवारी १८, २०१३/पौष २८, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,

मुंबई ४०० ०३२, दिनांक १८ जानेवारी २०१३

अधिसूचना

मुंबई औद्योगिक संबंध अधिनियम, १९४६.

क्रमांक मुंऔसं. १२२०१२/प्र.क्र. २३७/कामगार-२.—मुंबई औद्योगिक संबंध अधिनियम, १९४६ (१९४७ चा अकरा) यांच्या कलम १० अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून तसेच मा. उच्च न्यायालय, मुंबई यांची अधिसूचना क्रमांक ए-१२०१/२०१२, दिनांक १८ डिसेंबर २०१२ या अधिसूचनेस अनुसरून महाराष्ट्र शासन याद्वारे खाली नमुद केलेल्या न्यायिक अधिकाऱ्याची सदस्य, औद्योगिक न्यायालय या पदावर पुढीलप्रमाणे नियुक्ती करित आहे :—

अ.क्र.	न्यायाधीशाचे नाव व सध्याचे पदनाम	कोणाच्या जागी	सदस्यांचे नाव व नवीन पदनाम	संबंधित शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
१	श्री. व्ही. डब्ल्यू. हुड, सदस्य, औद्योगिक न्यायालय, नागपूर.	श्री. एस. व्ही. पाटील.	श्री. व्ही. डब्ल्यू. हुड, सदस्य, औद्योगिक न्यायालय, अकोला.	बीआयआर-०७९९/ २३९८/कामगार-२, दिनांक १२ ऑगस्ट १९९९.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सं. धों. डगळे,

कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BIR-122012/C.R. 237/LAB. 2, Dated the 18th January 2013. *Extra Ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 18th January 2013.

NOTIFICATION

BOMBAY INDUSTRIAL RELATIONS ACT, 1946.

No. BIR. 122012/C.R. 237/LAB. 2.—In exercise of the powers conferred by section 10 of the Bombay Industrial Relations Act, 1946 (11 of 1947), and with reference to the Notification by High Court of Judicature Appellate side, Bombay No. A-1201/2012, dated 18th December 2012, The Government of Maharashtra hereby appoints the following Judicial Officer as Member of Industrial Court :—

Sr. No.	Judge's Name and Present Designation	On Whose Place	Member's Name and New Designation	Government Notification No.
(1)	(2)	(3)	(4)	(5)
1	Shri V. W. Hood, Member, Industrial Court, Nagpur.	Shri S. V. Patil.	Shri V. W. Hood, Member, Industrial Court, Akola.	BIR-0799/2398/Lab-2, Dt. 12th August 1999.

By order and in the name of the Governor of Maharashtra,

S. D. DAGALE,
Desk Officer.

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शुक्रवार, जानेवारी १८, २०१३/पौष २८, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,

मुंबई ४०० ०३२, दिनांक १८ जानेवारी २०१३

अधिसूचना

मुंबई औद्योगिक संबंध अधिनियम, १९४६.

क्रमांक मुं.औसं. १२२०१२/प्र.क्र. २३२/कामगार-२.—मुंबई औद्योगिक संबंध अधिनियम, १९४६ (१९४७ चा अकरा) यांच्या कलम १० अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून तसेच उद्योग, ऊर्जा व कामगार विभाग, मंत्रालय, मुंबई यांची अधिसूचना क्रमांक आयसीई-१११२/प्र.क्र. १८०/कामगार-६, दिनांक ६ डिसेंबर २०१२ या अधिसूचनेस अनुसरून महाराष्ट्र शासन याद्वारे खाली नमूद केलेल्या न्यायिक अधिकाऱ्यांची सदस्य, औद्योगिक न्यायालय या पदावर पुढीलप्रमाणे नियुक्ती करित आहे :—

अ.क्र.	न्यायाधीशांचे नाव व सध्याचे पदनाम	कोणाच्या जागी	सदस्यांचे नाव व नवीन पदनाम	संबंधित शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
१	श्री. ए. झेड. तेलगोटे, दुसरे जिल्हा व अतिरिक्त सत्र न्यायाधीश, धुळे.	श्री. पी. एस. शिंदे.	श्री. ए. झेड. तेलगोटे, सदस्य, औद्योगिक न्यायालय, धुळे.	बीआयआर-२००४/ ३६५०/कामगार-२, दिनांक २८ मे २००४.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सं. धों. डगळे,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BIR-122012/C.R. 232/LAB. 2, Dated the 18th January 2013. *Extra Ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,
S. K. GAWADE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT
Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 18th January 2013.

NOTIFICATION

BOMBAY INDUSTRIAL RELATIONS ACT, 1946.

No. BIR. 122012/C.R. 232/LAB. 2.—In exercise of the powers conferred by section 10 of the Bombay Industrial Relations Act, 1946 (11 of 1947), and with reference to the Notification No. ICE-1112/C.R. 180/Labour-6, dated 6th December 2012, Industries, Energy and Labour Department, Mantralaya, Mumbai. The Government of Maharashtra hereby appoints the following Judicial Officer as Member of Industrial Court :—

Sr. No.	Judge's Name and Present Designation	On Whose Place	Member's Name and New Designation	Government Notification No. (5)
(1)	(2)	(3)	(4)	(5)
1	Shri A. Z. Telgote, 2nd District and Additional Sessions Judge, Dhule.	Shri P. S. Shinde	Shri A. Z. Telgote, Member, Industrial Court, Dhule.	BIR-2004/3650/ Lab-2, Date 28th May 2004.

By order and in the name of the Governor of Maharashtra,

S. D. DAGALE,
Desk Officer.

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शुक्रवार, जानेवारी १८, २०१३/पौष २८, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक १८ जानेवारी २०१३.

अधिसूचना

औद्योगिक विवाद अधिनियम, १९४७.

क्रमांक औविअ. १२२०१२/प्र.क्र. २३४/कामगार-२.—औद्योगिक विवाद अधिनियम, १९४७ (१९४७ चा चौदा) यांच्या कलम ७-अ व ८ अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून तसेच उद्योग, ऊर्जा व कामगार विभाग, मंत्रालय, मुंबई यांची अधिसूचना क्रमांक आयसीई-१११२/प्र.क्र. १८०/कामगार-६, दिनांक ६ डिसेंबर २०१२ या अधिसूचनेस अनुसरून महाराष्ट्र शासन याद्वारे खाली नमूद केलेल्या न्यायिक अधिकाऱ्याची पीठासीन अधिकारी, औद्योगिक न्यायाधिकरण या पदावर पुढीलप्रमाणे नियुक्ती करीत आहे :—

अ.क्र.	न्यायाधीशाचे नाव व सध्याचे पदनाम	कोणाच्या जागी	पीठासीन अधिकाऱ्याचे नाव व नवीन पदनाम	शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
१	श्री. ए. झेड. तेलगोटे, दुसरे जिल्हा व अतिरिक्त सत्र न्यायाधीश, धुळे.	श्री. पी. एस. शिंदे.	श्री. ए. झेड. तेलगोटे, पीठासीन अधिकारी, औद्योगिक न्यायाधिकरण, धुळे.	आयडीए-२००४/ ४/३८३९/काम-३, दिनांक १० मे २००४.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सं. धों. डगळे,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. IDA-122012/C.R. 234/LAB. 2, dated the 18th January 2013 *Extraordinary*, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 18th January 2013.

NOTIFICATION

INDUSTRIAL DISPUTE ACT, 1947.

No. IDA. 122012/C.R. 234/LAB. 2.—In exercise of the powers conferred by section 7A and 8 of the Industrial Dispute Act, 1947 (14 of 1947), and with reference to the Notification No. ICE-1112/C.R. 180/Labour-6, dated the 6th December 2012, Industries, Energy and Labour Department, Mantralaya, Mumbai. The Government of Maharashtra hereby appoints the following Judicial Officer as Presiding Officer of Industrial Tribunal :—

Sr. No.	Judge's Name and Present Designation	On Whose Place	Presiding Officer's Name and New Designation	Government Notification No.
(1)	(2)	(3)	(4)	(5)
1	Shri A. Z. Telgote, 2nd District and Additional Sessions Judge, Dhule.	Shri P. S. Shinde.	Shri A. Z. Telgote, Presiding Officer, Industrial, Tribunal, Dhule.	IDA-2004/4/3839/Lab-3, dated 10th May 2004.

By order and in the name of the Governor of Maharashtra,

S. D. DAGALE,
Desk Officer.

सोमवार, जानेवारी २१, २०१३/माघ १, शके १९३४

उद्योग, ऊर्जा व कामगार (विमा) विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,

मुंबई ४०० ०३२, दिनांक २१ जानेवारी २०१३

अधिसूचना

कामगार राज्य विमा कायदा, १९४८.

क्रमांक युएलपी-२०१३/प्र.क्र. ०४/काम-३.—कामगार राज्य विमा कायदा, १९४८ (१९४८ चा ३४) च्या कलम ७४ आणि मुंबई कामगार विमा न्यायालय नियम, १९५९ च्या नियम ९ पोट नियम (१) अन्वये प्रदान केलेल्या अधिकारांचा वापर करून महाराष्ट्र शासन, याद्वारे (१) सोबत जोडलेल्या परिशिष्टातील रकाना क्रमांक (२) मध्ये दर्शविल्याप्रमाणे अतिरिक्त कामगार विमा न्यायालय स्थापन करीत आहे आणि (२) सदर परिशिष्टाच्या रकाना क्रमांक (३) मध्ये दर्शविलेले (सदर कायद्याच्या कलम ७४ अन्वये विहित अर्हता प्राप्त असलेले) अधिकारी रकाना क्रमांक (२) मध्ये दर्शविलेल्या न्यायालयाचे न्यायाधीश असतील :—

अ. क्र. (१)	कामगार विमा न्यायालये (२)	अधिकारी (३)	स्थानिक विभाग (४)
१	कामगार विमा न्यायालय, मुंबई.	शासन अधिसूचना उद्योग, ऊर्जा व कामगार विभाग, क्रमांक बीआयआर-१०६५/(२)/काम-१, दिनांक २ मे १९६५ अन्वये स्थापन झालेले औद्योगिक न्यायालय की ज्यावर सध्या श्री. के. डब्ल्यू. ठाकरे कार्यरत आहेत.	बृहन्मुंबई महानगरपालिका (एन. एस. व टी. वॉर्ड सोडून).

या अधिसूचनेमध्ये ज्या न्यायिक अधिकाऱ्यांची नावे नमूद केली आहेत त्यांच्या जागी नेमणूक होणाऱ्या न्यायिक अधिकाऱ्यांनादेखील सदर अधिसूचना लागू राहिल.

२. या अधिसूचनेतील कोणताही आदेश या अधिसूचनेपूर्वी कोणाही पदाधिकाऱ्यापुढे अंशतः सुनावणी झालेल्या कोणत्याही प्रलंबित प्रकरणांना बंधनकारक राहणार नाही आणि या अधिसूचनेपूर्वी अंशतः सुनावणी झालेली प्रकरणे ही अधिसूचना निर्गमित झालेलीच नव्हती असे गृहीत धरून सदर प्राधिकारी निकाली काढू शकतील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. सा. चौधरी,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No.ULP-2013/C.R. 04/Lab-3, Dated the 21st January 2013, *Extra-ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR (INSURANCE) DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 21st January 2013.

NOTIFICATION

EMPLOYEES STATE INSURANCE ACT, 1948.

G. N. No. ULP-2013/C.R. 04/Lab-3.—In exercise of the powers conferred by Section 74 of the Employees' State Insurance Act, 1948 (34 of 1948) read with sub rule (1) of rule 9 of the Bombay Employees insurance Court Rules, 1959 the Government of Maharashtra hereby :—

Constitution Additional Employees Insurance Court as specified in column (2) of the Schedule annexed here to, for the local areas respectively specified against them in column (4) of the said schedule and appoints officers (being qualified under Section 74 of the said Act) specified against them in column (2) there of.

Sr. No. (1)	Employees Insurance Court (2)	Officer (3)	Local areas (4)
1	Employees Insurance Court, Mumbai.	Member, Industrial Court, Mumbai constituted under the Government Notification, Industries, Energy and Labour Department No. BIR-1065/(II)/ Lab-1, dated 2nd May 1965, now presided by Shri K. W. Thakare.	Municipal Corporation of Greater Mumbai (except N. S. and T. Wards).

This notification will also be effective in case of those Judicial Officers who will be the successors of the judicial officers mentioned herein above.

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

८३

Nothing in this notification shall affect the part heard cases pending immediately before the date of this notification on the file of the authority and those part head cases shall be disposed of by such authority as if this notification had nor been issued.

By order and in the name of the Governor of Maharashtra,

S. S. CHAUDHARI,
Desk Officer.

८४

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

१३

सोमवार, जानेवारी २१, २०१३/माघ १, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा मार्ग, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक २२ जानेवारी २०१३

अधिसूचना

कारखाने अधिनियम, १९४८.

क्रमांक एफएसी-२०११/प्र.क्र. २५६/काम-४.—कारखाने अधिनियम, १९४८ (१९४८ चा ६३) याच्या कलम ८५ च्या पोट-कलम (१) द्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून महाराष्ट्र शासन याद्वारे जाहीर करित आहे की, ज्या ठिकाणी सोबतच्या अनुसूचीत नमूद केलेली उत्पादन प्रक्रिया विद्युत शक्तीच्या मदतीने किंवा मदती शिवाय सामान्यतः चालू असते, अशा सर्व ठिकाणांना किंवा जागांना उक्त अधिनियमाच्या तरतुदी लागू असतील, मग—

१. जर विद्युत शक्तीच्या मदतीने काम करण्यात येत असल्यास, त्यामध्ये काम करणाऱ्या

व्यक्तींची संख्या दहापेक्षा कमी असेल आणि जर विद्युत शक्तीच्या मदतीशिवाय काम करण्यात येत असल्यास वीसपेक्षा कमी असेल, किंवा

२. तेथे काम करणारी व्यक्ती त्याच्या मालकाने कामावर ठेवलेली नसेल परंतु अशा मालकाच्या परवानगीने किंवा कराराखाली काम करीत असेल, परंतु मालकाने केवळ त्याच्या कुटुंबाच्या मदतीने उत्पादन प्रक्रिया चालू ठेवलेली नसावी.

अनुसूची

(१) कोणतीही उत्पादन प्रक्रिया, ज्यामध्ये सिलिका किंवा धूळ की ज्यामध्ये कोणत्याही प्रकारच्या सिलिकाचा समावेश आहे, निर्माण किंवा तयार होते, अशा कोणत्याही पदार्थाचा वापर, हाताळणी आणि साठवणूक यांचा समावेश आहे.

(२) खाली नमूद केलेली कोणतीही प्रक्रिया चालू असेल जसे—

- (अ) दगड, ग्रॅनाईट किंवा संगमरवर यांची कापणी किंवा हाताळणी.
- (ब) स्टोन क्रशर.
- (क) काच उत्पादन.
- (ड) सिमेंट उत्पादन.
- (इ) टाईल्स उत्पादन.
- (प) साचा किंवा ओतकाम उत्पादन.
- (फ) ओतकाम साफ करणे/घासणे.
- (ब) मुरमुरे, लाह्या इ. तयार करणे.
- (भ) सॅंड पेपर, ग्राइंड व्हील, विद्युत्प्ररोधक, चिनी मातीची भांडी उत्पादन.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

भास्कर मुंडे,

शासनाचे सचिव (कामगार).

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No.FAC 2011/C.R. 256/Labour-4, Dated the 22nd January 2013, is hereby published under the authority of the Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

BHASKAR MUNDE,
Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 22nd January 2013.

NOTIFICATION

Factories Act, 1948.

No. FAC-2011/CR-256/LAB-4.—In exercise of powers conferred by sub-section (1) of Section 85 of the Factories Act, 1948 (LXIII of 1948), the Government of Maharashtra hereby declares that all the provisions of the said Act shall apply to every premises or places including the precincts thereof, wherein any of the manufacturing processes mentioned in the Schedule appended hereto is carried on with or without the aid of power or is so ordinarily carried on, now withstanding that—

(i) the number of persons employed therein is less than ten, if working with the aid of power and less than twenty, if working without the aid of power ; or

(ii) the persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with, such owner,

Provided that, the manufacturing process is not being carried on by the owner with the aid of his family.

SCHEDULE

1. Any of manufacturing process which involves use, handling and storage of any material involving any form of Silica or dust containing any form of Silica is used, generated or formed in a process ;

2. Any of the process mentioned below are carried on, namely :—

- (i) Cutting or manipulation of stone, granite or marble ;
- (ii) Stone crushing ;
- (iii) Glass manufacturing ;
- (iv) Cement manufacturing ;
- (v) Tiles manufacturing ;
- (vi) Moulding or Casting manufacturing ;
- (vii) Cleaning of casting ;
- (viii) Murmure, popcorn etc. making ;
- (ix) Sand paper, Grind wheel, Electrical insulator, Pottery Manufacturing ;

By order and in the name of the Governor of Maharashtra,

BHASKAR MUNDE,
Secretary to Government (Labour).

१४

मंगळवार, जानेवारी २२, २०१३/माघ २, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक २१ जानेवारी २०१३

अधिसूचना

कामगार राज्य विमा कायदा, १९४८.

क्रमांक इएसआय-२०१३/प्र.क्र. ०४/काम-३.—कामगार राज्य विमा कायदा, १९४८ (१९४८ चा ३४) च्या कलम ७४ आणि मुंबई कामगार विमा न्यायालय नियम, १९५९ च्या नियम ९ पोट-नियम (१) अन्वये प्रदान केलेल्या अधिकारांचा वापर करून महाराष्ट्र शासन याद्वारे (१) सोबत जोडलेल्या परिशिष्टातील रकाना क्रमांक २ मध्ये दर्शविल्याप्रमाणे अतिरिक्त कामगार विमा न्यायालय स्थापन करित आहे आणि (२) सदर परिशिष्टांच्या रकाना क्रमांक ३ मध्ये दर्शविलेले (सदर कायद्याच्या कलम ७४ अन्वये विहित अर्हता प्राप्त असलेले) अधिकारी रकाना क्रमांक २ मध्ये दर्शविलेल्या न्यायालयाचे न्यायाधीश असतील :—

अ.क्र. (१)	कामगार विमा न्यायालये (२)	अधिकारी (३)	स्थानिक विभाग (४)
१	कामगार विमा न्यायालय, मुंबई.	शासन अधिसूचना उद्योग, ऊर्जा व कामगार विभाग क्रमांक बीआयआर-१०६५/(२)/काम-१, दिनांक २ मे १९६५ अन्वये स्थापन झालेले औद्योगिक न्यायालय की ज्यावर सध्या श्री. के. डब्ल्यू. ठाकरे कार्यरत आहेत.	बृहन्मुंबई महानगरपालिका (एन. एस. व टी. वॉर्ड सोडून).

या अधिसूचनेमध्ये ज्या न्यायिक अधिकाऱ्यांची नावे नमूद केली आहेत त्यांच्या जागी नेमणूक होणाऱ्या न्यायिक अधिकाऱ्यांनादेखील सदर अधिसूचना लागू राहिल.

या अधिसूचनेतील कोणताही आदेश या अधिसूचनेपूर्वी कोणाही पदाधिकाऱ्यांपुढे अंशतः सुनावणी झालेल्या कोणत्याही प्रलंबित प्रकरणांना बंधनकारक राहणार नाही आणि या अधिसूचनेपूर्वी अंशतः सुनावणी झालेली प्रकरणे ही अधिसूचना निर्गमित झालेलीच नव्हती असे गृहीत धरून सदर प्राधिकारी निकाली काढू शकतील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. सा. चौधरी,
कार्यासन अधिकारी.

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. ESI-2013/C.R. 04/Lab-3, dated the 21st January 2013, *Extra ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT
Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 21st January 2013

NOTIFICATION

EMPLOYEES STATE INSURANCE ACT, 1948.

G. N. No. ESI-2013/C.R. 04/Lab-3.—In exercise of the powers conferred by Section 74 of the Employees' State Insurance Act, 1948 (34 of 1948) read with sub rule (1) of rule 9 of the Bombay Employees Insurance Court Rules, 1959 the Government of Maharashtra hereby :—

Constitution Additional Employees Insurance Court as specified in column 2 of the Schedule annexed hereto, for the local areas respectively specified against them in column 4 of the said schedule and appoints officers (being qualified under Section 74 of the said Act) specified against them in column 2 there of.—

Sr. No. (1)	Employees Insurance Court (2)	Officer (3)	Local areas (4)
1	Employees Insurance Court, Mumbai.	Member, Industrial Court, Mumbai constituted under the Government Notification— Industries, Energy and Labour Department No. BIR-1065/(II)/ Lab-1, dated 2nd May 1965, now presided by Shri K. W. Thakare.	Municipal Corporation of Greater Mumbai (except N. S. and T. Wards).

This notification will also be effective in case of those Judicial Officers who will be the successors of the judicial officers mentioned herein above.

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

९१

Nothing in this notification shall affect the part heard cases pending immediately before the date of this notification on the file of the authority and those part head cases shall be disposed of by such authority as if this notification had not been issued.

By order and in the name of the Governor of Maharashtra,

S. S. CHAUDHARI,
Desk Officer.

९२

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६

१५

गुरुवार, जानेवारी २४, २०१३/माघ ४, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक २४ जानेवारी २०१३

शुद्धिपत्र

महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक बीएसई.०६/२०१२/प्र.क्र. १५७/कामगार-१०.—महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (१९४८ चा मुंबई एकोणऐंशी), यांच्या कलम ४ च्या परंतुकान्वये प्रदान करण्यात आलेल्या प्राधिकारानुसार महाराष्ट्र शासनाने मे. मुंबई इंटरनॅशनल एअरपोर्ट प्रा. लि., छत्रपती शिवाजी आंतरराष्ट्रीय विमानतळ, शला मजला, टर्मिनल १बी, सांताक्रुझ (पूर्व), मुंबई ४०० ०९९, महाराष्ट्र या आस्थापनेस शासन समक्रमांक , दिनांक ६ नोव्हेंबर २०१२ रोजीच्या अधिसूचनेन्वये उक्त अधिनियमातील कलमे १३, १८ व ३३(३) मधून ३ वर्षासाठी सूट देण्यात आली आहे.

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६ ९३

उक्त अधिसूचनेतील अट क्रमांक ९ नंतर खालील अटीचा समावेश करण्यात येईल. “ (१०)
सब-लिज मालमत्तेमध्ये स्थित दुकाने/आस्थापनांना सदरहू सुटीचा लाभ मिळण्यासाठी शासनाकडे स्वतंत्रपणे
अर्ज करावे लागतील. ”

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ना. द. थोरवे,
कार्यासन अधिकारी.

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६ ९४

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government *Corrigendum*, Industries, Energy and Labour Department No. BSE-06/2012/CR 157/Lab-10, dated the 24th January 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT
Mantralaya, Mumbai 400 032, dated the 24th January 2013.

CORRIGENDUM

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE-06/2012/CR 157/Lab-10.—In exercise of the powers conferred by the proviso to section 4 of the Maharashtra Shops and Establishment Act, 1948 (Bom. LXXIX of 1948), the Government of Maharashtra *vide* even number notification, dated the 6th November 2012, has been granted the exemption to M/s. Mumbai International Airport Pvt. Ltd., Chhatrapati Shivaji International Airport, 1st Floor, Terminal 1B, Santacruz (E.), Mumbai 400 099, Maharashtra under sections 13, 18 and 33(3) of the said Act for the period of 3 years.

In the said notification after Condition No. 9, the following condition shall be inserted, namely—

“(10) The Shops/Establishments and retail outlets situated at the sub-leased property shall have to make separate applications to the Government to availing benefit of this exemption.”

By order and in the name of the Governor of Maharashtra,

N. D. THORVE,
Section Officer.

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मंगळवार, जानेवारी २९, २०१३/माघ ९, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक २९ जानेवारी २०१३

अधिसूचना

संदर्भ.— उद्योग, ऊर्जा व कामगार विभाग मंत्रालय, मुंबई यांची अधिसूचना
क्रमांक आयसीई-१२१२/प्र.क्र. १९५/काम-६, दिनांक १६ जानेवारी २०१३.

महाराष्ट्र कामगार संघांना मान्यता देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत
अधिनियम, १९७१.

क्रमांक युएलपी. २०१३/सं.क्र. ३९/प्र.क्र. २७/कामगार-३.—उपरोक्त संदर्भित अधिसूचनेस अनुसरून
खाली नमूद केलेल्या न्यायिक अधिकाऱ्यांची सदस्य, औद्योगिक न्यायालय या पदावर महाराष्ट्र कामगार
संघांना मान्यता देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत अधिनियम, १९७१

(१९७२ चा एक) यांच्या कलम ४ अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र
शासन याद्वारे पुढीलप्रमाणे सदस्यांच्या नियुक्त्या करित आहे :—

अ.क्र.	न्यायाधीशांचे नाव व सध्याचे पदनाम	कोणाच्या जागी	सदस्यांचे नाव व नवीन पदनाम	शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
१	श्री. एन. व्ही. देशमुख, जिल्हा न्यायाधीश-१ आणि अतिरिक्त सत्र न्यायाधीश, अकोला.	श्री. एस. डी. भाटे.	श्री. एन. व्ही. देशमुख, सदस्य, औद्योगिक न्यायालय, लातूर.	युएलपी-२००४/५/ सी.आर-३८९४/ काम-०३, दिनांक ३ जून २००४.
२	श्रीमती पी. डी. देसाई, जिल्हा न्यायाधीश-१ आणि अतिरिक्त सत्र न्यायाधीश, कोल्हापूर.	श्री. व्ही. डब्ल्यू. हूड.	श्रीमती पी. डी. देसाई, सदस्य, औद्योगिक न्यायालय, नागपूर.	युएलपी-१०७२/ काम-१, दिनांक ८ सप्टेंबर १९७५.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. सा. चौधरी,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. ULP. 2013/R.N. 39/C.R. 27/Lab.-3, Dated the 29th January 2013, *Extra Ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 29th January 2013.

NOTIFICATION

Ref.— Industries, Energy and Labour Department Notification
No. ICE-1212/C.R. 195/Labour-6, dated the 16th January 2013.

MAHARASHTRA RECOGNITION OF TRADE UNIONS AND PREVENTION OF UNFAIR LABOUR PRACTICES ACT, 1971.

No. ULP. 2013/R.N. 39/C.R. 27/Lab-3.—With reference to the Notification under reference, the Government of Maharashtra, hereby appoints the following Judicial Officer as Member of Industrial Court in exercise of the powers conferred by section 4 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practice Act, 1971 (1 of 1972) :—

Sr. No.	Judge's Name and Present Designation	On Whose Place	Member Name and New Designation	Government Notification No.
(1)	(2)	(3)	(4)	(5)
1	Shri N. V. Deshmukh, District Judge-1 and Additional Sessions Judge, Akola.	Shri S. D. Bhate.	Shri N. V. Deshmukh, Member, Industrial Court, Latur.	ULP-2004/5/C.R. 3894/Lab-3, dated 3rd June 2004.

(1)	(2)	(3)	(4)	(5)
2	Ms. P. D. Desai, District Judge-1 and Additional Sessions Judge, Kolhapur.	Shri V. W. Hood.	Ms. P. D. Desai, Member, Industrial Court, Nagpur.	ULP-1072/Lab-1, dated 8th September 1975.

By order and in the name of the Governor of Maharashtra,

S. S. CHAUDHARI,
Desk Officer.

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बुधवार, फेब्रुवारी ६, २०१३/माघ १७, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक ६ फेब्रुवारी २०१३.

अधिसूचना

महाराष्ट्र माथाडी, हमाल व इतर श्रमजीवी कामगार (नोकरीचे नियमन व कल्याण) अधिनियम, १९६९.

क्रमांक युडब्ल्युए-१३२००५/(१७२/४)/कामगार-५.—महाराष्ट्र माथाडी, हमाल व इतर श्रमजीवी कामगार (नोकरीचे नियमन व कल्याण) अधिनियम, १९६९ (महाराष्ट्र १९६९ चा क्र. ३०) यांच्या कलम ६ ची पोट-कलमे (१), (३), (५) आणि (६) तसेच महाराष्ट्र माथाडी, हमाल व इतर श्रमजीवी कामगार (नोकरीचे नियमन व कल्याण) नियम, १९७० यातील नियम ३(१) अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून तसेच यासंदर्भात यापूर्वी निर्गमित करण्यात आलेल्या सर्व अधिसूचना अधिक्रमित

करून महाराष्ट्र शासन याद्वारे औरंगाबाद माथाडी व असंरक्षित कामगार मंडळ, औरंगाबाद या नावाने ओळखण्यात येणाऱ्या मंडळाची खालीलप्रमाणे पुनर्रचना करीत आहे :—

२. राज्य शासन सदर मंडळावर राज्य शासन प्रतिनिधी, मालक प्रतिनिधी व असंरक्षित कामगार प्रतिनिधींची अध्यक्ष व सदस्य म्हणून खालीलप्रमाणे नियुक्ती करीत आहे :—

राज्य शासनाचे प्रतिनिधी

१. श्री. दे. द. बांबोडे अध्यक्ष
कामगार उप आयुक्त, औरंगाबाद माथाडी व असंरक्षित कामगार मंडळ.

मालक प्रतिनिधी

१. श्री. प्रभाकर उत्तमराव शिंदे सदस्य
२. श्री. जालिंदर महादेव शिंदे सदस्य
३. श्री. चैतन्य भगतसिंग राजूरकर सदस्य
४. श्री. रहीम खान अजिम खान सदस्य
५. श्री. अजय गुलाबराव पवार सदस्य
६. श्री. किशोर चोटीया सदस्य

असंरक्षित कामगारांचे प्रतिनिधी

१. श्री. वसंत सखाराम वक्ते सदस्य
२. श्री. संजय मदनलाल खरे सदस्य
३. श्री. अविनाश बारकूजी अंभोरे सदस्य
४. श्री. मनोज पांडुरंग जामसुतकर सदस्य
५. श्री. शेख मकसुद शेख बाबा मिया सदस्य
६. श्री. रमेश आसाराम जाधव सदस्य

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. कि. गावडे,
शासनाचे उप सचिव.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. UWA. 132005/(172/4)/Lab-5, dated the 6th February 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 6th February 2013.

NOTIFICATION

MAHARASHTRA MATHADI, HAMAL AND OTHER MANUAL WORKERS (REGULATION OF EMPLOYMENT AND WELFARE) ACT, 1969.

No. UWA. 132005/(172/4)/Lab-5.—In exercise of the powers conferred by sub-sections (1), (3), (5) and (6) of Section 6 of the Maharashtra Mathadi, Hamal and Other Manual Worker's (Regulation of Employment and Welfare) Act, 1969 (Mah. XXX of 1969) read with sub-rule (1) of rule 3 of Maharashtra Mathadi, Hamal and Other Manual Worker's (Regulation of Employment and Welfare) Rules, 1970 and in supersession of all other Notifications issued in this behalf and are in force, the Government of Maharashtra hereby reconstitutes the Board as to be known as Aurangabad Mathadi and Unprotected Worker's Labour Board as follows :—

2. The State Government hereby appoints representatives of the State Government, representatives of the Principal Employers and representatives of the Unprotected Workers as Chairman and Members of the Board as follows :—

Members Representing the State Government

1. Shri D. D. Bambode, Chairman
Dy. Commissioner of Labour, Aurangabad Mathadi
and Unprotected Labour Board.

Members Representing the Principal Employers

1. Shri Prabhakar Uttamrao Shinde Member
2. Shri Jalinder Mahadeo Shinde Member
3. Shri Chaitanya Bhagatsingh Rajurkar Member
4. Shri Rahim Khan Ajim Khan Member
5. Shri Ajay Gulabrao Pawar Member
6. Shri Kishor Chotia Member

Members Representing the unprotected workers

1. Shri Vasant Sakham Wakte Member
2. Shri Sanjay Madanlal Khare Member
3. Shri Avinash Barkuji Ambhore Member
4. Shri Manoj Pandurang Jamsutkar Member
5. Shri Shaikh Maqsum Shaikh Baba Miya Member
6. Shri Ramesh Asaram Jadhav Member

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

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बुधवार, फेब्रुवारी ६, २०१३/माघ १७, शके १९३४

उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक ६ फेब्रुवारी २०१३

अधिसूचना

महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) अधिनियम, १९८१.

क्रमांक एसजीए. २०१२/प्र.क्र. ३४८९/काम-५.—ज्याअर्थी, ज्यांची नावे यासोबत जोडलेल्या अनुसूची एकच्या स्तंभ (२) मध्ये नमूद केलेली आहेत अशा विवक्षित सुरक्षा रक्षकांना (यात यापुढे ज्यांचा उल्लेख “उक्त सुरक्षा रक्षक” असा करण्यात आला आहे), उक्त अनुसूची एकच्या स्तंभ (४) मध्ये नमूद केलेल्या मुख्य मालकांकडे कामावर ठेवलेले आहे, अशा मे. समर्थ सिक्युरिटी (रायगड), बिरवाडी, तालुका महाड,

जिल्हा रायगड व मालक श्री. अमोल अशोक कारेकर यांनी महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) अधिनियम, १९८१ (१९८१ चा महाराष्ट्र ५८) याच्या कलम २३ अन्वये, उक्त अधिनियमाच्या सर्व तरतुदी आणि महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) योजना, २००२ (यात यापुढे ज्याचा उल्लेख “उक्त योजना” असा करण्यात आला आहे) यांच्या अंमलबजावणीतून सूट मिळण्यासाठी अर्ज केला आहे ;

आणि ज्याअर्थी, सल्लागार समितीशी विचारविनिमय केल्यानंतर व उक्त सुरक्षा रक्षकांना मिळत असलेल्या लाभांची पडताळणी केल्यानंतर, त्यांना मिळत असणारे लाभ हे उक्त अधिनियमाद्वारे व त्या अधिनियमान्वये आणि उक्त योजनेद्वारे व तदन्वये तरतूद केलेल्या लाभांपेक्षा एकंदरीत पाहता कमी फायदेशीर नाहीत, असे महाराष्ट्र शासनाचे मत झालेले आहे ;

त्याअर्थी, आता, महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) अधिनियम, १९८१ याच्या कलम २३ अन्वये प्रदान केलेल्या अधिकारांचा वापर करून महाराष्ट्र शासन याद्वारे उक्त अधिनियमाच्या व उक्त योजनेच्या सर्व तरतुदींच्या अंमलबजावणीतून उक्त खाजगी सुरक्षा रक्षकांना, यासोबत जोडलेल्या अनुसूची-दोनमध्ये विनिर्दिष्ट केलेल्या शर्तीच्या अधीन राहून, **राजपत्रात** ही अधिसूचना प्रसिद्ध केल्याच्या दिनांकापासून तीन वर्षांच्या कालावधीसाठी सूट देत आहे.

अनुसूची १

अ.क्र. (१)	सुरक्षा रक्षकांचे नाव (२)	वर्ग (३)	मुख्य मालकाचे नाव व पत्ता (४)
१.	दत्तात्रेय विष्णू सोहनी	सुरक्षा रक्षक	मे. प्रिव्ही ऑर्गॅनक्स लि., प्लॉट नं. ३३/१. एम.आय.डी.सी., महाड, जिल्हा रायगड.
२.	रमेश श्रीधर जाधव	सुरक्षा रक्षक	
३.	विजय गणपत महाडिक	सुरक्षा रक्षक	

टीप.—महाराष्ट्र शासन या सुरक्षा रक्षकांबाबत कोणत्याही प्रकारची हमी घेत नाही. मुख्य मालक स्वतःच्या जबाबदारीवर सुरक्षा रक्षकांना कामे देऊ शकतात.

अनुसूची २

मालक एजन्सीने व मुख्य मालकांनी पाळावयाच्या शर्ती

१. **पोलीस तपासणी.**— सुरक्षा रक्षकांच्या तसेच एजन्सीच्या मालकांच्या पूर्वइतिहासाबाबत पोलीस पडताळणी दाखला तसेच एजन्सीकडे केंद्र शासनाच्या खाजगी सुरक्षा रक्षक (नियमन) कायदा, २००५ अंतर्गत परवाना असणे आवश्यक असेल.

२. **प्रशिक्षण.**— सुरक्षा रक्षकांना नियुक्त करण्यापूर्वी पुरेसे प्रशिक्षण देणे आवश्यक असेल.

३. **शैक्षणिक, शारीरिक आणि इतर पात्रता.**— सुरक्षा रक्षकांची शैक्षणिक व शारीरिक पात्रता पुढीलप्रमाणे असेल:—

किमान शैक्षणिक पात्रता.— इयत्ता ८ वी उत्तीर्ण.

शारीरिक पात्रता.— (अ) (१) उंची - १६२ सें.मी.

(२) वजन - ५० किलो

(३) छाती - न फुगवता - ७९ सें.मी.

फुगवून - ८४ सें.मी.

(४) नजर - दृष्टी चष्मा असल्यास नंबर जास्त नसावा.

(ब) आदिवासी उमेदवारांना उंचीमध्ये ५ सें.मी. व छातीमध्ये २ सें.मी. ची सवलत देण्यात यावी.

४. **लाभ.**— सुरक्षा रक्षकांना पुढील लाभ मिळतील :—

(अ) गणवेश प्रत्येक वर्षाला २ जोड.

(ब) चामडी बूट प्रत्येक वर्षात १ जोड.

(क) पावसाळी व हिवाळी गणवेश— (२ वर्षांतून एकदा) रेनकोट, ट्राऊझर, टोपी, वूलन कोट व पॅट.

५. **वेतन व इतर कायदेशीर सवलती.**— सूट दिलेल्या सुरक्षा रक्षकाने राष्ट्रीयीकृत बँकेमध्ये आपले खाते उघडावे व मालक एजन्सीने मुख्य मालकाकडे तैनात केलेल्या सुरक्षा रक्षकांच्या देय वेतनाच्या रकमेइतका रेखांकित धनादेश ७ तारखेपर्यंत वैयक्तिकरित्या सुरक्षा रक्षकास द्यावा. सुरक्षा रक्षकास दिलेल्या वेतनाबाबतचे सविस्तर तपशील नमुना च् क छ मधील विवरणपत्रामध्ये भरून सुरक्षा रक्षक मंडळास दर महिन्याच्या १० तारखेपर्यंत पाठवावे. मालक एजन्सीने खाली दर्शविल्याप्रमाणे लाभ सुरक्षा रक्षकांना द्यावेत :—

सानुग्रह अनुदान	:	वेतनाच्या १० टक्के
उपदान	:	वेतनाच्या ४ टक्के
भरपगारी रजा	:	वेतनाच्या ६ टक्के
भरपगारी सुट्टी	:	वेतनाच्या १ टक्का

सुरक्षा रक्षकांना लागू असलेल्या भविष्यनिर्वाह निधी व कामगार राज्य विमा योजना यांच्या वजाती मालक एजन्सीने परस्पर संबंधित प्राधिकरणाकडे जमा कराव्यात आणि त्यांचे चलन माहितीसाठी मंडळास सादर करावे. मालक एजन्सीने भरणा केलेल्या भविष्यनिर्वाह निधी व कामगार राज्य विमा योजनेच्या वजातीबाबतच्या पावत्या/चलन सुरक्षा रक्षकांना नियमितपणे देऊन त्या संदर्भातील एकत्रित तपशील शासनास, कामगार आयुक्त कार्यालयास व सुरक्षा रक्षक मंडळास प्रत्येक ६ महिन्यांनी सादर करावा, असे न केल्यास मालक एजन्सीला जबाबदार धरून दिलेली सूट रद्द करण्यात येईल.

६. **अतिकालिक भत्ता.**— सुरक्षा रक्षकांना मिळणारा अतिकालिक भत्ता हा मंडळाने नोंदीत सुरक्षा रक्षकांसाठी निश्चित केलेल्या वेतन दराच्या दुप्पट दरापेक्षा कमी नसावा, याबाबत संबंधित मुख्य मालकाची अंतिम जबाबदारी राहिल.

सुरक्षा रक्षकांना देय वेतन व लाभ देणे मुख्य मालकांची जबाबदारी असून मुख्य मालकाने त्यांच्याकडे तैनात करण्यात आलेल्या सुरक्षा रक्षकांना अधिनियम आणि योजनेतील तरतुदीनुसार वेतन व लाभ मिळत आहेत याची खात्री करून घेणे बंधनकारक असेल.

७. **विवरणपत्र सादर करणे.**— (अ) **त्रैमासिक विवरणपत्र.**—मालक एजन्सीजने सुरक्षा रक्षकांच्या नियुक्तीबाबतचे त्रैमासिक विवरणपत्र प्रत्येक त्रैमासिकाच्या (जानेवारी, एप्रिल, जुलै व ऑक्टोबर महिन्याच्या) पहिल्या आठवड्यात सोबत जोडलेल्या नमुना च् अछ मध्ये शासन, कामगार आयुक्त आणि सुरक्षा रक्षक मंडळास सादर करावे.

(ब) **सहामाही विवरणपत्र.**— (१) नियुक्त केलेल्या, नोकरी सोडून गेलेल्या आणि नव्याने भरती केलेल्या सुरक्षा रक्षकांबाबतचे विवरणपत्र दर ६ महिन्यांनी सोबत जोडलेल्या नमुना च् बछ मध्ये शासन, कामगार आयुक्त आणि सुरक्षा रक्षक मंडळ यांना एजन्सीने सादर करावे.

(२) भविष्यनिर्वाह निधी व राज्य कामगार विमा योजनेची वर्गणी एजन्सीने नियमित भरून संबंधित सुरक्षा रक्षकांना त्यासंबंधी वेळोवेळी पावत्या द्याव्यात व दर सहा महिन्यांत तसे केल्याबाबतचा अहवाल शासनास, कामगार आयुक्त व सुरक्षा रक्षक मंडळास द्यावा.

(३) यापूर्वीच्या भविष्यनिर्वाह निधीच्या रकमा व राज्य कामगार विमा योजनेची वर्गणी भरल्याबाबतचा पुरावा शासनाकडे सदर अधिसूचना निर्गमित झाल्यापासून तीन महिन्यांच्या आत सादर करावा. अन्यथा संबंधित सुरक्षा रक्षकांना देण्यात आलेली सूट रद्द करण्यात येईल.

(क) **वार्षिक विवरणपत्र.**— प्रत्येक मालक एजन्सीने, सनदी लेखापाल यांनी प्रमाणित केलेले वार्षिक विवरणपत्र सोबत जोडलेल्या नमुना च् डछ मध्ये दरवर्षी ३० जून पर्यंत शासनास तसेच मंडळास सादर करावे. ज्यात एजन्सीने भरलेला आयकर, सुरक्षा रक्षकांचा जमा केलेला भविष्य निर्वाह निधी व कामगार राज्य विमा याबाबतच्या चलनाच्या प्रती व इतर तपशील असेल.

८. **एजन्सीची व सूटप्राप्त सुरक्षा रक्षकांची मंडळाकडे नोंदणी.**— अधिसूचनेच्या दिनांकापासून एक महिन्याच्या कालावधीत उक्त मंडळाकडे महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) योजना, २००२ च्या खंड १३(२) व १४(३) मधील तरतुदीनुसार एजन्सीजने स्वतःची मालक म्हणून आणि त्यांच्याकडील सूटप्राप्त सुरक्षा रक्षकांची विहित नमुन्यातील अर्ज व शुल्क भरून मंडळात नोंदणी करून घ्यावी.

९. **एजन्सीच्या मुख्य मालकांची मंडळाकडे नोंदणी.**— सूटप्राप्त सुरक्षा रक्षकांच्या एजन्सीमार्फत सुरक्षा रक्षक नियुक्त करणाऱ्या मुख्य मालकाने अधिसूचनेच्या दिनांकापासून १५ दिवसांचे आत योजनेच्या खंड १३(१)(अ) अन्वये स्वतःची मंडळात विहित नमुन्यातील अर्ज व शुल्क भरून नोंदणी करून घ्यावी.

१०. **नोंदणी शुल्क.**— एजन्सीने तसेच सूटप्राप्त सुरक्षा रक्षकाने मंडळाकडे नोंदणी करतेवेळी महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) योजना, २००२ च्या खंड १७ मधील तरतुदीनुसार मंडळाकडे विहित कालावधीत आवश्यक ते नोंदणी शुल्क भरले पाहिजे.

११. **नोंदणीकृत कार्यालय.**— एजन्सीचे नोंदणीकृत कार्यालय असावे आणि त्याबाबतची माहिती एजन्सीने शासन, कामगार आयुक्त व मंडळास द्यावी. नोंदणीकृत कार्यालयाचा पत्ता बदलल्यास अथवा एजन्सीच्या नावात बदल झाल्यास १५ दिवसांचे आत बदलाबाबतच्या आवश्यक त्या कागदोपत्री पुराव्यासह शासनास व मंडळास कळवावे, जेणेकरून शासन सुधारित अधिसूचना जारी करील. सुधारित अधिसूचना जारी झाल्यानंतर मंडळ झालेल्या बदलांची नोंद घेईल.

१२. **सुरक्षा रक्षकांची नियुक्ती.**— उक्त मंडळाकडे ज्या मुख्य मालकांची नोंदणी झाली आहे आणि/किंवा जे उक्त मुख्य मालक मंडळाच्या सुरक्षा रक्षकांच्या सेवेचा लाभ घेत आहेत अशा मुख्य मालकांकडे एजन्सी त्यांचेकडील सुरक्षा रक्षक नेमणार नाही. अशाप्रकारे सुरक्षा रक्षक नेमल्यास मालक एजन्सीला जबाबदार धरून दिलेली सूट रद्द करण्यात येईल.

१३. **ओळखपत्र व हजेरी कार्ड देणे.**— खाजगी सुरक्षा रक्षक एजन्सी त्यांचेकडील सुरक्षा रक्षकांना व अधिकाऱ्यांना नियुक्त केल्यापासून ३० दिवसांच्या आत ओळखपत्र व हजेरीकार्ड देईल.

१४. **कायदेशीर देणी अदा करणे.**— सुरक्षा रक्षक ज्यावेळी एजन्सीची नोकरी सोडतील, त्यावेळी त्यांना देय असलेली सर्व कायदेशीर देणी (उपदान व इतर कायदेशीर देणी) एजन्सीने अदा करून त्याबाबत झालेल्या व्यवहारांच्या प्रती मंडळाकडे सादर करणे एजन्सीला बंधनकारक राहील.

१५. **एकावेळी एकाच मुख्य मालकाकडे नोकरी.**— सुरक्षा रक्षक एकावेळी एकापेक्षा अधिक मुख्य मालकाकडे काम करणार नाही. याबाबत प्रत्येक सुरक्षा रक्षक एजन्सीने खात्री करून घेतली पाहिजे.

१६. **एखाद्या सुरक्षा रक्षकास त्याच्या निवासस्थानापासून ५० कि.मी. पेक्षा अधिक अंतरावर काम करण्यासाठी पाठविल्यास मालक एजन्सीने त्याच्या एकूण वेतनाच्या २० टक्के रक्कम त्याला भत्ता म्हणून द्यावी.**

१७. **सुरक्षा रक्षकांच्या फायद्यांसंदर्भात शासनाने किंवा मंडळाने भविष्यकाळात घातलेल्या अटी व शर्तीचे पालन करणे एजन्सीला, तसेच मुख्य मालकाला बंधनकारक राहील.**

१८. **मालक एजन्सीने त्यांच्या सुरक्षा रक्षकांना सूट प्राप्त झाल्यानंतर, सुरक्षा रक्षकांच्या वेतनाच्या ३ टक्के एवढी लेव्ही दरमहा १० तारखेपर्यंत मंडळास देय राहील. सदर लेव्ही अधिसूचना निर्गमित झाल्याच्या दिनांकापासून १ महिन्याच्या आत मंडळाकडे जमा करणे अनिवार्य राहील.**

मंडळाने विनिर्दिष्ट केलेल्या कालमर्यादेत लेव्हीची रक्कम भरण्यात जे नियोक्ता अधिकरण सातत्याने कसूर करील ते नियोक्ता अधिकरण मंडळाने भरणा करण्यास निर्धारित केलेल्या रकमेच्या १० टक्केहून अधिक असणार नाही इतका अधिभार दंडाच्या रूपाने मंडळाकडे भरील.

१९. **मालक एजन्सीमार्फत सुरक्षा रक्षक नियुक्त करणाऱ्या मुख्य मालकाने करार संपुष्टात आल्यानंतर वा इतर कोणत्याही कारणामुळे सुरक्षा रक्षकांची सेवा घेणे बंद केले असल्यास सेवा खंडीत केल्याच्या दिनांकापासून ७ दिवसांच्या आत अशा मुख्य मालकाची व तेथून कमी केलेल्या सुरक्षा रक्षकांची नावे व तपशील मालक एजन्सी मंडळास सादर करील. अशा मुख्य मालकाची अधिसूचनेनुसार घेतलेली मंडळातील नोंदणी रद्द होईल. तसेच मालक एजन्सीकडून नोकरी सोडून गेलेल्या सुरक्षा रक्षकांची नावे व तपशील मालक एजन्सी मंडळास व नजीकच्या पोलीस ठाण्यास ७ दिवसांच्या आत सादर करील. अशाप्रकारे नोकरी सोडून गेलेल्या सुरक्षा रक्षकांची नोंदणी मंडळ रद्द करील.**

२०. **मुख्य मालकाकडून सुरक्षा रक्षकांच्या कामाच्या मोबदल्यापोटी एजन्सीकडे जमा होणाऱ्या रक्कमेपेकी, मंडळाने सुरक्षा रक्षकांच्या वेतनापोटी निश्चित केलेली रक्कम तसेच सर्व वैधानिक रकमा जसे भविष्य निर्वाह निधी, कामगार राज्य विमा योजना, बोनस प्रदान, रजा वेतन, राष्ट्रीय सुट्ट्यांचे वेतन यासाठी विनियमित केले जाईल निदान इतकी रक्कम किंवा मुख्य मालकाने एजन्सीला अदा केलेल्या रकमेच्या ५६ टक्के इतकी रक्कम किंवा यापेकी जी अधिक असेल ती सुरक्षा रक्षक एजन्सीनी सुरक्षा रक्षकांना अदा करणे आवश्यक आहे.**

२१. **सुरक्षा रक्षकांना साप्ताहिक सुट्टी उपभोगण्याकरिता कार्यमुक्त करणाऱ्या सुरक्षा रक्षकांचे वेतन मुख्य मालक एजन्सीला अदा करील. हे वेतन यथा प्रमाण पद्धतीवर आधारित असेल व ही रक्कम मूळ वेतनाच्या १०% अथवा जी अधिक असेल इतकी असेल.**

२२. **सुरक्षा रक्षक मंडळामध्ये जमा करावयाची लेव्ही, सुरक्षा रक्षकांच्या प्रशिक्षणासाठीचा खर्च, देखरेखीवरील खर्च, तसेच एजन्सीचा प्रशासकीय खर्च व नफा या सर्व गोष्टींचा खर्च हा मुख्य मालकाने एजन्सीकडे जमा केलेल्या एकूण रक्कमेच्या ३०% रक्कमेपेक्षा जास्त नसावा.**

२३. उपरोक्त अनिवार्य लादलेल्या खर्चावर नियमानुसार सेवाकर आकारला जाईल व सेवाकर त्या त्या वेळी अंमलात असलेल्या दरानुसार असेल.

२४. या व्यतिरिक्त सुरक्षा रक्षकांना गणवेश दिला जाईल व त्यासाठी ४% रक्कम दरवर्षी राखीव ठेवण्यात येईल.

२५. सुरक्षा रक्षकांना त्यांचे वेतन पुढील महिन्याच्या सात तारखेपर्यंत देण्यात यावे.

वरीलपैकी कोणत्याही शर्तीचे मालक एजन्सीने उल्लंघन केल्यास त्यांना देण्यात आलेली सूट रद्द करण्यात येईल किंवा काढून टाकण्यात येईल.

अटी, शर्ती व नियमांचे तंतोतंत पालन होण्याबाबतची जबाबदारी मुख्य मालकाची असेल. अधिसूचनेतील तरतुदीनुसार सुरक्षा रक्षकांना एजन्सीने फायदे दिले नसल्यास सूट प्राप्त सुरक्षा रक्षकांना सदर फायदे देण्याची जबाबदारी मुख्य मालकाची असेल.

नमुना “ अ ”

सुरक्षा रक्षक एजन्सीने सादर करावयाचे त्रैमासिक विवरणपत्र

महिन्यांचे त्रैमासिक विवरणपत्र :

दिनांक :

जानेवारी-मार्च,
एप्रिल-जून,
जुलै-सप्टेंबर,
ऑक्टोबर-डिसेंबर

एजन्सीचे नाव व पत्ता :

अधिसूचना क्रमांक व दिनांक :

एजन्सीचा मंडळातील नोंदणी क्रमांक :

अनु- क्रमांक	मुख्य मालकाचे नाव व पत्ता	सुरक्षा रक्षकांच्या नियुक्तीचे ठिकाण	सुरक्षा रक्षकांचे नाव व वर्ग
(१)	(२)	(३)	(४)

प्राधिकृत स्वाक्षरीकर्ता,

(नाव व हुद्दा).

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६
नमुना “ ब ”

१११

सुरक्षा रक्षक एजन्सीने सादर करावयाचे सहामाही विवरणपत्र

विवरणपत्राचा कालावधी : जानेवारी ते जून/जुलै ते डिसेंबर दिनांक :

एजन्सीचे नाव व पत्ता :

अधिसूचना क्रमांक व दिनांक :

एजन्सीचा मंडळातील नोंदणी क्रमांक :

अ.क्र.	मुख्य मालकाचे नाव व पत्ता	नियुक्त केलेल्या सुरक्षा रक्षकांची वर्गनिहाय एकूण संख्या	सुरक्षा रक्षक एजन्सी सोडून गेलेल्या सुरक्षा रक्षकांची वर्गनिहाय संख्या	नव्याने भरती झालेल्या सुरक्षा रक्षकांची वर्गनिहाय संख्या
(१)	(२)	(३)	(४)	(५)

प्राधिकृत स्वाक्षरीकर्ता,

(नाव व हुद्दा).

११२

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६
नमुना “ क ”

एजन्सीने वेतन प्रदानाबाबत सुरक्षा रक्षक मंडळास सादर करावयाचे विवरणपत्र

वेतन प्रदानाचा महिना :

मुख्य मालकाचे नाव व पत्ता :

बँकेचे नाव (शाखा व पत्ता) :

अनु- क्रमांक	सुरक्षा रक्षकाचे नाव	धनादेश क्रमांक व दिनांक	रक्कम
(१)	(२)	(३)	(४)

प्राधिकृत स्वाक्षरीकर्ता,

(नाव व हुद्दा).

नमुना “ ड ”

सुरक्षा रक्षक एजन्सीने सादर करावयाचे वार्षिक विवरणपत्र

वार्षिक विवरणपत्राचे आर्थिक वर्ष : दिनांक :

एजन्सीचे नाव व पत्ता :

अधिसूचना क्रमांक व दिनांक :

एजन्सीचा मंडळातील नोंदणी क्रमांक :

अ.क्र.	महिने (एप्रिल ते मार्च)	नियुक्त केलेल्या सुरक्षा रक्षकांची संख्या	सुरक्षा रक्षकांना अदा केलेले एकूण वेतन	भविष्य निर्वाह निधी ज्यावर कपात केली आहे असे वेतन	मंडळाकडे जमा केलेली ३ टक्के लेव्ही रक्कम
(१)	(२)	(३)	(४)	(५)	(६)

प्राधिकृत स्वाक्षरीकर्ता,

(नाव व हुद्दा).

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. कि. गावडे,

शासनाचे उप सचिव.

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. SGA. 2012/CR-3489/LAB-5, dated the 6th February 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT
Mantralaya, Mumbai 400 032, dated the 6th February 2013

NOTIFICATION

MAHARASHTRA PRIVATE SECURITY GUARDS (REGULATION OF EMPLOYMENT AND WELFARE) ACT, 1981.

No. SGA.2012/C.R.-3489/LAB-5.— Whereas certain Security Gaurds whose names are mentioned in Column (2) of Schedule I appended hereto (hereinafter referred to as “the said Security Guards”), employed with the Principal Employer mentioned in Column (4) of the said Schedule I, employed by M/s. Samarth Security, (Raigad), Birwadi, Taluka-Mahad, District-Raigad and owner Shri Amol Ashok Karekar have applied for grant of exemption, under Section 23 of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 (Mah. LVIII of 1981) from the operation of all provisions of the said Act and the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Scheme, 2002 (hereinafter referred to as “the said Scheme”);

And whereas the Government of Maharashtra, after consultation with the Advisory Committee and after verification of the benefits enjoyed by the said Security Guards is of the opinion that they are in enjoyment of benefits, which are on the whole not less favourable to them than the benefits provided by and under the said Act and the said Scheme ;

Now, therefore, in exercise of powers conferred by Section 23 of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981, the Government of Maharashtra hereby exempts the said Security Guards from operations of all provisions of the said Act and the said Scheme, for a period of three years from the date of publication of this notification in *Official Gazette*, subject to conditions specified in Schedule II appended hereto :—

Schedule I

Sr. No. (1)	Name of Security Guards (2)	Class (3)	Name and address of Principal Employer (4)
1.	Dattatrey Vishnu Sohani.	Security Guard	M/s. Privi Organics Ltd., Plot No. 33/1, M.I.D.C., Mahad, District Raigad.
2.	Ramesh Shridhar Jadhav.	Security Guard	— „ —
3.	Vijay Ganpat Mahadik.	Security Guard	— „ —

Note.—Government of Maharashtra does not take guarantee of any sort as regards to Security Guards. Principal Employers can employ these Private Security Guards at their own risk.

Schedule II

Conditions to be followed by the Employer Agency and Principal Employer

(1) *Police Verification.*—Police Verification Certificates regarding antecedent of the guards as well as the employer of such guard is necessary. Licence under the Private Security Agency (Regulation) Act, 2005 is also compulsory on the part of Employer Agency.

(2) *Training.*—Adequate training shall be imparted to the Security Guards before they are deployed.

(3) *Educational Qualifications, Physical Fitness and other requirements.*—Educational, physical and other requirements for the Security Guards shall be as follows :—

Minimum Education Qualification : 8th Standard Passed.

Physical Requirements (A) (1) Height — 162 cm.

(2) Weight — 50 kg.

(3) Chest — 79 cm. (Without Expansion) and 84 cm. (On Expansion)

(4) Sight — If wearing glasses, the glass should not have excess number.

(B) In case of tribal candidates, there will relaxation of 5 c.m. in height and 2 c.m. in chest.

(4) *Benefits.*—Benefits for Security Guards shall be as follows :—

(a) *Uniform :* Two pairs in a year.

(b) *Shoes :* One pair of leather shoes in a year.

(c) *Rainy and Winter Uniform :* (Once in two years) Raincoat, Trousers and Cap, Woollen Coat and Pant.

(5) *Wages and other statutory Benefits.*—Exempted Security Guard shall open his account in a Nationalised Bank and agency shall give crossed cheque to each Security Guard equivalent to his earned wages by 7th of every month. Statement showing details of wages paid in Form “C” shall be submitted to the Security Guards Board by 10th of every month. The Agency shall give the following benefits to the Security Guards.

Ex-Gratia	:	10% of wages
Gratuity	:	4% of wages
Leave with wages	:	6% of wages
Paid Holidays	:	1% of wages.

Contribution to be deposited with the Competent Authorities in respect of various statues such as Provident Fund, E.S.I. etc. applicable to the Principal Employer, shall be deposited by the Agency with such authority and challan thereof be submitted to the Board for information. The Security Guards Agency should give regular receipt to the Guard and submit a consolidated report of the abovesaid transactions to the Government, the Commissioner of Labour and the Security Guards Board every six months. In case of default, the Agency shall be held responsible and shall be liable for cancellation of exemption.

(6) *Overtime Allowance.*—Overtime Allowance should not be less than double the rates of wages existing at that time on the analogy of the Security Guards deployed by the Security Guards Board. The ultimate responsibility in this respect lies on the concerned Principal Employer.

It is the responsibility of the Principal Employer to pay wages and provide benefits to the Security Guards. The Principal Employer, in turn, shall ensure that the guards deployed at his establishment are getting wages and benefits not less favourable than those available under the Scheme.

(7) *Filling of Returns*—(a) *Quarterly Return.*—Agency to submit quarterly return to the Government, the Commissioner of Labour and Board in the first week of first month of the quarter (January, April, July and October) in respect of employment of Security Guards in Form “A” appended hereto.

(b) *Half Yearly Return.*—(1) Half Yearly Return in Form “B” appended hereto shall be submitted by the Agency in respect of Guards engaged, who have left and newly recruited to the Government, the Commissioner of Labour and Board.

(2) The Security Guard Agency should make regular contribution of employees’ Provident Fund and ESIC of the concerned Security Guards and give regular Receipts to the guard and submit a consolidated report of the above said transaction to the Government, the Commissioner of Labour and the Security Guards Board every six months.

(3) The Security Guard Agency should submit proof of the previous contributions of employees’ Provident Fund and ESIC within a period of three months from the date of publication of this Notification to the Government. Otherwise, the exemption given to the concerned Security Guards will be cancelled.

(c) *Annual Return.*—Every Agency shall submit at Annual Return of Income Tax, P.F., E.S.I. duly certified by Chartered Accountant, in Form-D on or before 30th of June of every year to the Government and the Board, along with copies of challans and other details.

(8) *Enrollment of the Agency with the Board.*—The Agency should get itself enroll with the Board according to the provisions of Clause 13(2) of the Maharashtra Private Security Guard (Regulation of Employment and Welfare) Scheme, 2002, as an employer agency and shall register exempted Security Guards under Clause 14(3) of the Scheme applying in the Form devised by the Board by paying prescribed registration fee within a period of one month from the date of issuance of this Notification.

(9) *Registration of Principal Employer of Employer Agency.*—The Principal Employer who is engaging exempted Security Guards of the agency shall get register with the Board as provided under Clause 13(1) (a) of the Scheme within 15 days from date of exempted Notification, applying in the Form devised by the Board by paying prescribed registration fee.

(10) *Enrollment fees.*—While getting itself registered with the Board, the Agency should pay Registration Fee to the Board as per clause 17 of Maharashtra Private Security Guards (Regulation of Employment and Welfare), Scheme 2002 within stipulated time.

(11) *Registered Office.*—Every Agency shall have registered office which shall be notified to the Government, Commissioner of Labour and the Board. In case of change in address or change in name, the same shall be informed to the Government and to the Board along with documentary proof thereof within a period of 15 days from such change, so as to Government can issue Notification in respect thereof. Board shall take note of such changes after issuance of the Notification.

(12) *Allotment of Guards.*—The Agency shall not allot their Security Guards to such Principal Employers who are registered with the Board. If agency deploys its Security Guards to such Principal Employer in that case exemption will be cancelled.

(13) *Issue of Identity Cards/Attendance Card.*—Every Agency shall issue identity card, attendance card to Security Guards and Officers engaged and deployed by them.

(14) *Payment of Legal Dues.*—Whenever a Security Guard leaves his job, it is obligatory on the part of the agency to pay all the legal dues to him and copy of the records thereof shall be submitted to the Board including gratuity and other legal dues.

(15) *Employment with one principal Employer at a time.*—Every Agency shall also ensure that its Security Guards shall not work for more than one Principal Employer at a time.

(16) If any Security Guard is asked to work beyond the radius of 50 kms. from his place of residence, the Employer Agency shall pay an allowance @ 20% of total emoluments of such Security Guard.

(17) The Agency and Principal Employer is liable to abide with any other terms and conditions, which may be imposed in favour of Security Guard by the Government of Maharashtra or Board in future.

(18) The exempted Security Guard Agency should pay levy @ 3% to the Board per month on wages paid to the Security Guards on or before 10th of every month. The agency should start paying such levy within the period of 1 month from the date of exemption Notification.

The employer agency who persistently makes default in remitting the amount of 3% levy within the time limit specified as above, shall further pay by way of penalty, surcharge @ 10% of the amount to be remitted.

(19) In case, the Principal Employer discontinues the exempted Security Guards due to expiry of agreement or due to any reason, in that case, the agency shall submit the details of such Principal Employers and the Security Guards to the Board within 7 days from such discontinuation. In such case the registration of the said Principal Employer shall stand cancelled. The agency shall also submit the details of Security Guards who have left the services due to any reason alongwith details of the Principal Employers to the Board and concerned Police Station within 7 (Seven) days. On receipt of the above details Board will cancel the registration of such exempted guards.

(20) From the amount of the payment made by the Principal Employer to the Security Agency, the Security Guards will be paid at least an amount which has been fixed by the Board towards the wages and all the statutory benefits towards Provident Fund, E.S.I.C., Payment of Bonus, leave with wages, leave on national holidays etc. or the same shall be the amount equivalent to 56% of the gross payment made by the Principal Employer to the Security Agency, whichever is higher.

(21) The Principal Employer will pay to the agency on a prorata basis for the reliever who would be relieving the Security Guard in case of his weekly off or the amount paid to the reliever shall be 10% of the basic wages, or whichever is higher.

(22) The amounts of levy to be deposited to the Security Guards Board, the cost of training of the Security Guards, the cost of supervision, administration of profits of the agency the total cost of which will not exceed more than 30% of the total amount paid by the Principal Employer to the agency.

(23) The Service Tax will be levied on the total mandatory cost mentioned herein above at the rate which is in force at any given point of time.

(24) In addition to this uniform will be provided to the Security Guards. For this purpose an amount of 4% per annum should be delineate.

(25) Wages of the Security Guards will be paid not later than 7th of every next month.

Breach of any of above conditions by the employer agency shall make employer agency liable for cancellation or revocation of the exemption granted under this notification.

It shall be the responsibility of the Principal Employer to see that the terms, conditions and rules are followed scrupulously and in case the agency fails to grant the benefits to the exempted Security Guards as per the conditions of Notification the Principal Employer will be held responsible to pay the same to the exempted Security Guards.

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६
FORM 'A'

१२१

Quarterly Return to be filed by the Agency

Quarterly Return for the months Date :

(January-March
April-June
July-September
October-December) :

Name and Address of the Agency :

Notification No. and Date :

Registration No. of Agency with the Board :

Serial Number	Number and Address of the Principal Employer	Location of Security Guards deployed	Name and Category of the Guards
(1)	(2)	(3)	(4)

Authorised Signatory,

(Name and Designation).

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६
FORM 'B'

१२२

Half Yearly Return to be submitted by Security Guards Agency

Period of Return : January to June/ Date :
July to December

Name and Address of the Agency :

Notification No. and Date :

Registration No. of Agency with the Board :

Serial No.	Name and Address of Principal Employer	Total No. of Security Guards engaged Categorywise	No. of Security Guards who have left the Security Guards Agency Categorywise	Number of Security Guards Newly Recruited Categorywise
(1)	(2)	(3)	(4)	(5)

Authorised Signatory,

(Name and Designation).

महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार, १२३
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६
FORM 'C'

**Statement to be submitted to the Security Guards Board regarding
disbursement of wages.**

Disbursement of wages for the month of :

Name and Address of the Principal Employer :

Name of the Bank (Branch and Address) :

Serial No.	Name of the Security Guard	No. and Date of the Cheque	Amount
(1)	(2)	(3)	(4)

Authorised Signatory,

(Name and Designation).

१२४ महाराष्ट्र शासन राजपत्र भाग एक-ल, गुरुवार ते बुधवार,
जुलै १०-१६, २०१४/आषाढ १९-२५, शके १९३६
FORM 'D'

Annual Return to be submitted by Security Guards Agency

Period of Annual Return :

Date :

Name and Address of the Agency :

Notification No. and Date :

Registration No. of Agency with the Board :

Serial No.	Months (April to March)	Total No. of of Security Guards engaged	Total Wages Paid to the Security Guard	The Wages on which the P.F. contribution is deducted	3% Levy Submitted to the Board
(1)	(2)	(3)	(4)	(5)	(6)

Authorised Signatory,

(Name and Designation).

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,

Deputy Secretary to Government.